

**THE RAIL AND MASS TRANSIT SECURITY:  
INDUSTRY AND LABOR PERSPECTIVES**

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**HEARING**  
BEFORE THE  
**SUBCOMMITTEE ON TRANSPORTATION  
SECURITY AND INFRASTRUCTURE  
PROTECTION**  
OF THE  
**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**  
ONE HUNDRED TENTH CONGRESS  
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(III)



## **THE RAIL AND MASS TRANSIT SECURITY: INDUSTRY AND LABOR PERSPECTIVES**

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**Tuesday, February 13, 2007**

**U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
SUBCOMMITTEE ON TRANSPORTATION SECURITY  
AND INFRASTRUCTURE PROTECTION,  
*Washington, DC.***

The subcommittee met, pursuant to call, at 3:04 p.m., in Room 311, Cannon House Office Building, Hon. Sheila Jackson Lee [chairman of the subcommittee] presiding.

Present: Representatives Jackson Lee, DeFazio, Norton, Clarke, Thompson, Lungren, Blackburn, and King.

Ms. JACKSON LEE. [Presiding.] Good afternoon. The subcommittee will come to order.

The subcommittee is meeting today to receive testimony on the topic of rail and mass transit security, industry and labor perspectives.

Welcome to the Subcommittee on Transportation Security and Infrastructure Protection. I am delighted to have one of our very able members join us at the very start. We know that members are engaged in the debate on Iraq on the floor of the House.

We thank you, Congresswoman Eleanor Holmes Norton, for your presence, and also for the members of your constituency.

By proclamation of Congresswoman Norton, the House of Representatives here is open. So if there is any information about the government being closed, she has announced that we are open.

[Laughter.]

And we thank you for your presence here today.

Let me first of all indicate that Chairman Thompson had as one of his visions, which I join him in working with him intently and intensely, is to have, after our work is done, the best homeland security on our transportation systems that we can possibly have. That is, a comprehensive approach that involves local agencies, the federal government, and as well the personnel that are engaged. Of course, our committee addresses transportation from rail to aviation, to otherwise.

Your presence here today will help us be good fact-finders so that we can be good legislators, and frankly, make good on the promise after 9/11 that we made to the American people that we would fix our intelligence system, that we would work to develop a Department of Homeland Security, and for those of you in local and state government, that we would actually communicate with you so that

(1)

you would know the information that we have, and that you would be able to make, along with us, the best judgment.

Certainly, I know that, like all Americans, you have become increasingly alarmed at the lack of security for rail and public transportation systems around the country. Each weekday, 11.3 million passengers in 35 metropolitan areas and 22 states use commuter heavy or light rail. It is time for the department to take concrete steps to protect these men and women. History has shown that terrorists view rail and public transportation systems as potential targets, but I believe, even as you work very hard, we recognize that terrorists are very creative. So we have to be vigilant and diligent on every aspect of America's security and transportation system together.

Almost 3 years ago, terrorist bombs exploded on Madrid's rail system, killing and maiming hundreds of innocent victims. This coming July marks the second anniversary of the terrorist bombings throughout London's Underground Tube system, and abroad London transit buses. Last summer, a number of bombs tore through Mumbai's rail system in the worst attack we have seen on a public transportation system. Over the years, we have seen in the Israeli-Palestinian conflict that transportation systems were used as a source of terrorism and suicide bombings.

Our enemies around the world have proven that they can and will kill hundreds and injure hundreds more by means of terrorism, but they will also injure and maim and kill thousands upon thousands, and maybe millions, of innocent persons. That is our challenge. According to a RAND Corporation database of worldwide terrorist incidents between 1995 and June, 2005, there were over 250 terrorist attacks worldwide against rail targets, resulting in almost 900 deaths and over 6,000 injuries. These numbers do not include those killed and injured in the London and Mumbai attacks in 2005 and 2006.

Despite all of these attacks, rail and public transportation security remains secondary to aviation. Most importantly, our frontline workers have been left out in the cold when it comes to security training. Labor organizations have repeatedly called for additional training for rail and mass transit employees. The absence of mandated security training stands in stark contrast to the maritime sector of the United States. The Maritime Transportation Security Act requires that every vessel and facility plan describe the training, periodic unannounced drills, and security actions of persons on the vessel or at the facility to be carried out under the plan, to deter to the maximum extent practical a transportation security incident or a substantial threat of such a security incident.

The London Underground has recognized the importance of training exercises. Every staff member has had training in evacuation and safety procedures. In addition, the London Underground system holds regular emergency exercises. There is no reason that we cannot have this level of training for our rail and mass transit workers. It defies belief that men and women are working in high-target areas and have not been provided the tools and training to safeguard lives and minimize damage to our infrastructure and to our economy.

We have noticed that the federal government does not seem to take rail and mass transit security seriously. That means that for now we must rely on industry and local government to make sure that adequate training is given to their frontline workers. To the witnesses, let me be very clear. We want a frank discussion today. This is an opportunity to be forthright with us. We know that all of us equally will have to accept the responsibility if we have some tragic incident occur. So teach us. We are willing to learn.

We are engaged in legislation writing as we speak. So your input will be vital to putting forward a very effective legislative initiative that will not blame, but that will incorporate your ideas and work toward real safety. For example, I realize that jurisdictions like New York have a heavy burden of local support of their transportation systems in terms of security. For large systems like Washington, D.C. and others as your very able members who are on this committee have indicated, there must be a greater local-federal partnership on security.

I believe that it is important for us to have a partnership with all of the employees that have to be on the frontline of transportation systems, and therefore the first ones to be the first responders if a tragic incident occurs on light, heavy or commute rail. However, I am concerned that the industry has not had the sense of urgency that I think is important when it comes to adequately staffing and training employees. I hope that this is not the case, and that we will not suffer another disaster because of it.

So we are here to listen to you and the system, fix the kinks or the great gaps, or the great schisms in our system. My colleagues and I will be introducing legislation, as I indicated, in this Congress, mandating that the administration take concrete steps to improve the nation's rail and public transportation system. The American people deserve no less, and I intend to push and work with this committee to pass the bill.

Let's do it in a way that incorporates all of the valuable testimony and concerns and insight that you have. But most of all, let's do it in keeping with our responsibility to secure America and secure the homeland.

The chair now recognizes the ranking member of the full committee, Mr. King of New York, for his opening statement.

Mr. KING. I thank the chairwoman for yielding. I want to commend her and the chairman of the full committee, Mr. Thompson, for the effort they are putting into this whole issue of rail and transit security, which obviously is an issue which must be confronted and which is essential to the security of our country. Just to look at Madrid and at London is an occasion of how dangerous the situation can be, and how deadly it can be.

Also, coming from New York, where we do have, as the chairwoman mentioned, in many ways unique problems, with more than 400 train stations, over, 1,000 exits and entrances, and millions of passengers every day. In addition to that, we have the commuter lines coming in from Nassau County, Suffolk County, Westchester, Rockland, New Jersey. So it is obviously a master problem, and even our Penn Station being rebuilt, there have been some security issues there in the tunnels leading into Manhattan.

So with all of that, I certainly look forward to working with the chairman and the chairwoman as we go forward. I also want to take this opportunity, though, to commend the MTA and the NYPD for the efforts that they have taken in moving forward and being aggressive and being proactive. They I believe really are setting a standard for the rest of the nation. I hope that whatever we do builds on that and incorporates into a federal plan what has been achieved, and again, what else has to be achieved in New York, because they would be the first to say that we certainly have not achieved full security. In fact, I think the uniqueness of rail and transit security does separate it from aviation security. It is a different species altogether.

I also want to, and I see that the ranking member of the subcommittee has arrived, commend him for the efforts that he put in last year when he was chairman of the subcommittee on this issue. He certainly went forward with the issue and I believe achieved a great deal. And also the department itself, all of us know that more can be done. The fact is, with VIPR teams and other efforts, they have made significant progress.

I would hope, too, as we go forward with legislation, that whatever we do does not diminish the power of the Department of Homeland Security and the TSA to have the final word. We should not be ceding any jurisdiction or authority to any other federal agency, certainly when it comes to the awarding of grants. I think, in fact I know, that Homeland Security and TSA are best equipped to make grant awards based upon risk and threat analysis, and also as part of a national fabric. So I would hope as we go forward that we are not ceding any of that grant authority to any other federal agency or department.

So again, I look forward to the work of this subcommittee and the full committee. I know we have a very aggressive and energetic schedule over the next weeks and months. I look forward to working with the chairwoman of the subcommittee, and also the ranking member of the subcommittee, who has already established such a fine record in this field.

With that, I yield back the balance of my time.

Ms. JACKSON LEE. Thank you, Mr. King. Let me thank you for your leadership, along with the leadership of the chairman of the full committee, Mr. Thompson.

Let me, before I yield to the distinguished gentleman from California, the ranking member of this subcommittee, acknowledge the presence of Congresswoman Clarke of New York, Mr. DeFazio of Oregon, and Ms. Blackburn of Tennessee. Thank you.

It is my pleasure now to recognize the ranking member of the subcommittee, the gentleman from California, for an opening statement.

Mr. LUNGEN. Thank you very much, Madam Chairperson. I congratulate you for these sets of hearings and for moving so quickly on this issue. This is one on which there is a bipartisan recognition of, that is that rail and mass transit security is, by its very nature, unique. It is different, certainly, from those that we have dealt with in the area of aviation and some of the other areas. And yet it is one that needs our attention.

As was suggested by the gentleman from New York, Mr. King, we had started on this in the last 2 years, but we had just started, and much remains to be done. I am particularly pleased that you have representatives from industry and labor here today because that gives us a perspective that we need to continue to have. We in government don't have all the answers. We have a lot of the questions, but we would make a mistake if we did not seek the expertise of those who are actually on the frontlines. If there is security to be had for rail and mass transit, obviously the workers are the ones that are our first line of defense, and they are the ones that would be, in essence, the first responders to a problem.

So I think there is recognition among all of us, including the administration, that much more needs to be done in the area of training, and the grant programs, as we have all agreed, must be done on a risk-based analysis setting. And so I hope that we will continue with that.

Again, I thank you for beginning these hearings. I hope that we can work on a bipartisan basis to come up with some rail and mass transit security legislation.

Ms. JACKSON LEE. Do you yield back? The gentleman yields back.

The chair now recognizes the chairman of the full committee, the gentleman from Mississippi, Mr. Thompson, for his opening statement. We thank him for his leadership on this issue.

Mr. THOMPSON. Thank you very much, Madam Chairman. I look forward to the testimony of our witnesses this afternoon. I think we all agree that rail security from a federal perspective, is non-existent because we have deferred to state and locals to handle security. The federal government has provided little direction from a homeland security perspective.

I look forward to the testimony. I look forward to the Department of Homeland Security, with Congress's direction, stepping forward and being more aggressive in this area, both for passenger rail, as well as our freight van systems. It is clear that investment is important. We spend about 2 cents per passenger on rail security in this country. We spend around \$9 per passenger on airline security, which is a significant difference. Nonetheless, we have to step forward.

I am also privileged to see that organized labor is committed to making sure that they are full participants in this process. They have indicated that their members want more training, so they can help on the frontlines with the war on terrorism. I look forward to hearing what they have to report.

Madam Chair, I think we all recognize the vulnerability. The question is, when we will move forward and make sure that we address it? The public will expect nothing less. So I look forward to the testimony and I look forward to crafting legislation in pursuit of many of the items we hear in the testimony.

I yield back.

Ms. JACKSON LEE. I thank the chairman for his challenge. We are up for the task.

I would like to welcome now the first panel of witnesses.

Our first witness is Mr. Fred Weiderhold, the inspector general of Amtrak, who brings more than 20 years of railroad management experience.

Our second witness is Ms. Nancy Wilson, vice president for security for the Association of American Railroads, who has over 25 years of experience in the railroad industry.

Third is Lewis Schiliro, the director of interagency preparedness for the New York Metropolitan Transportation Authority. Mr. Schiliro is a 25-year veteran of the Federal Bureau of Investigations, and currently works with all of the MTA agencies to coordinate preparedness and prevention policies.

Without objection, the witnesses' full statement will be inserted into the record.

Before I allow you to proceed, might I also indicate that other members of the subcommittee are reminded that under the committee rules, opening statements may be submitted for the record.

I would also ask each witness to summarize his or her statement for 5 minutes, beginning with Mr. Weiderhold from Amtrak.

Welcome, and thank you for your testimony.

**STATEMENT OF FRED WEIDERHOLD, INSPECTOR GENERAL,  
AMTRAK**

Mr. WEIDERHOLD. Thank you, Madam Chairperson and members of the subcommittee. I appreciate the opportunity to appear here today.

I am the inspector general for Amtrak, and I am responsible for overseeing all of Amtrak's operations and programs, including those involving safety and rail security.

My message to you today is fairly straightforward. Our nation's passenger railroads are not as prepared for a terrorist event as we can or we should be. We have made and we are continuing to make inroads with multiple federal, state and local partners, towards improving rail security, but we are not there yet.

We should not underestimate those who would do us harm. Recent history in Chechnya, Madrid, London and Mumbai clearly demonstrates that passenger rail and transit are in the terrorists' target folders. It may not be a question of "if," but rather "when." We cannot wait for the right technology or silver bullet to evolve. Amtrak's board and senior management understand the need to move quickly. Management has told me it will provide more employee training, more emergency response training, more canines and more security on its trains and in its stations within the year.

That said, I am sure the committee realizes that Amtrak operates in a very complex environment. Amtrak operates in 44 states and serves over 500 stations daily. Amtrak carries over 25 million passengers each year and the company operates much of the northeast rail corridor, with over 1,000 trains and 600,000 riders using New York's Penn Station each day.

Amtrak operates trains through underwater and underground tunnels, over bridges and under electrified track. The system is designed with an open architecture, with multiple access points, and with little redundancy. The challenges to fence, gate and lockdown rail assets are considerable.

Passenger rail and Amtrak need your help. In my written testimony, I make four recommendations that closely mirror what this committee has proposed in its rail security agenda. First, there needs to be a convergence in security research and development

through some kind of technology center. I think Ms. Wilson from the AAR will comment on some of the things that the rail industry is doing in that regard.

Second, there should be criteria, if not requirements, for building in security into all capital projects. We readily accept the need to engineer in factors of safety, but there is no equivalent for security.

Third, we need effective security standards. Amtrak is operating under a set of security directives that were promulgated immediately after the Madrid attacks. These directives need to be revisited with the rail sector to ensure that the directives are applicable and add value.

The committee may want to look to APTA, the American Public Transit Association, which is a designated standards-development organization, what we call an SDO, for leadership in this assignment. Amtrak is planning to work with domestic and international engineering standards groups in this area, which we will of course be closely coordinating with DHS.

Fourth, some level of passenger and baggage screening is inevitable, especially during times of high alert or when threat information is present. For many reasons, Amtrak cannot go down the path of the aviation security experience, but Amtrak should consider developing a policy that is defensible, is consistent with its business model, and is effective.

Madam Chair, my office has conducted a number of reviews and Red Teams of Amtrak and our rail system that we believe will be of great interest to the committee. At an appropriate time, and most likely in a closed setting, we will be happy to brief you on this work and our other ongoing efforts.

Again, we appreciate this opportunity to testify today. You have my assurance that my office will work very closely with you and the subcommittee in the coming months.

Thank you.

[The statement of Mr. Weiderhold follows:]

#### PREPARED STATEMENT OF FRED E. WEIDERHOLD

Thank you very much for the opportunity to appear before you today to discuss rail security issues affecting passenger rail services and Amtrak. I share your belief that rail security must be a national priority, and I am pleased to attend this hearing. I will tell you today that, although some progress is being made, we are not at all where we need to be on rail passenger security; we have not moved far enough, or fast enough. There should be a strong and united urgency to do the right things that will protect rail infrastructure and rail passengers, and we collectively have much work to do.

As Amtrak's Inspector General, I am responsible for oversight of all of Amtrak's programs and operations. For the past several years, my Office has been heavily involved in evaluating and overseeing security operations within Amtrak. Immediately following the bombings in Chechnya, in December 2003, Amtrak's Board Chairman asked me to conduct an in-depth review of Amtrak's police and security operations. My Office worked with the Federal Railroad Administration (FRA) to obtain the services of the RAND Corporation to conduct this review. We were barely one month into our work when terrorists struck the Spanish rail system on March 11, 2004. In April 2004, we provided Amtrak with our observations and recommendations to improve security preparedness and to formalize and upgrade its police and security planning and operations. Amtrak has made some progress toward addressing some of the security shortfalls that were identified, but significant challenges remain.

We are a statutory Office of Inspector General (OIG), and we have been very forward leaning in our security assessments. During the past two years, my Office has conducted several "red team" operations covering critical Amtrak assets; we have performed detailed CBRNE site assessments using the Lawrence Livermore Na-

tional Laboratory Homeland Defense Operational Planning System (HOPS) group; we have been greatly assisted by the California National Guard and the Technical Support Working Group (TSWG) in contracting for highly detailed, virtual digital mapping of key stations (for use by asset stakeholders and first responders); and we have been similarly assisted by the National Guard Bureau and their Full Spectrum Infrastructure Vulnerability Assessment (FSIVA) teams. We have also independently contracted and sponsored counter-surveillance training for select Amtrak police, OIG staff, and other railroad security staff. In short, we on our own have sought help from almost any quarter, be it federal, state, and private entities, to find those "right things" to do.

My Office and Amtrak also reached out to the international rail and security communities, sponsoring visits in February 2005 from the Guardia Civil, Spain's premier counter-terrorism unit and Spain's national railways operator, Renfe. In 2006, Amtrak officials were briefed by both British and Indian Railway officials regarding attacks in their countries, and as recently as last month, Amtrak senior managers were provided special briefings by the British Transport Police.

The Amtrak OIG has also joined the President's Council for Integrity and Efficiency (PCIE) Homeland Security Roundtable, chaired by DHS Inspector General Richard Skinner, where we will be sharing red teaming and other security assessment approaches with the OIG community. And we will begin using the PCIE's *Guide to Evaluating Agency Emergency Preparedness* (November 2006) in our FY 2007 evaluations of emergency planning at Amtrak.

Given our extensive involvement in the rail security and the anti-terrorism field, we make the following observations and recommendations to the Committee.

#### **Significant Challenges Exist to Secure Rail Infrastructure and Passengers**

The challenges to secure Amtrak and make passenger railroading safer from potential terrorists' attacks are daunting. Amtrak operates in 44 states serving over 500 cities and towns across the nation. Amtrak operates 260 inter-city trains daily, and the company has agreements with 15 states to operate and maintain trains for many intra-state corridor services. As the owner and operator of much of the Northeast Rail Corridor, between Washington, DC and Boston, Amtrak controls and dispatches hundreds more trains for its rail and transit partners, including New Jersey Transit and the Long Island Rail Road. Amtrak directly owns many other critical fixed assets, such as New York Penn Station and Chicago Union Station, and there are other customers and tenants that make use of Amtrak's rights-of-way and other properties. Outside of the Northeast Rail Corridor, Amtrak operates over thousands of miles of the rail lines of its freight partners, where train operations are controlled and monitored by the host railroads.

Our nation's rail system is one of the more open, and some say porous, passenger transportation systems in the world, both with respect to physical infrastructure and the very nature of the business itself. Amtrak's stations and trains are, by design, intended to allow persons to move freely unto and off its trains and through its station portals. There are multiple access points throughout our system and it is difficult to fence, gate, and lock down many parts of the system.

Amtrak also operates trains through various tunnels, in New York City, Baltimore, Maryland, and Washington DC, which present special safety and security issues. However, even given these challenges, effective access control and monitoring at critical nodes and around high value assets must be designed and implemented.

Any attempt to replicate a TSA-style aviation security architecture would most likely be extremely cost-prohibitive and ineffective. This does not mean that there are not significant lessons to be learned from TSA's aviation security model, and certainly some technologies and monitoring processes to be shared, but the final solution set for passenger rail security must be tailored to its unique environment.

#### **Security Funding**

A stable funding mechanism for sustained security and emergency preparedness improvements at Amtrak, and within the passenger rail sector, is critically important. Most of you know that Amtrak's financial condition has been precarious in recent years, and Amtrak's funding of police and security operations has been limited to its own internal police forces (about 350 persons) and work on a major fire and life-safety tunnel project in New York City. Amtrak was requested, on several occasions, by both House and Senate Members to delineate what it needs to advance its security and emergency preparedness, but well intended bills have never been enacted.

Amtrak was *not even eligible* for DHS grant monies until FY 2005, at which time Amtrak became eligible for approximately \$6.0 million of \$150 million that was provided for "intercity passenger rail, freight rail, and transit security grants". In sub-

sequent appropriations, Amtrak received \$7.1 million in FY 2006 and \$8.2 million in FY 2007. Amtrak has used some of these grant funds to conduct vulnerability assessments, install a pilot chemical sensor system in four stations, fund a Washington tunnel security pilot project, and fund several other higher priority projects. However, there are many more security and emergency preparedness projects and initiatives for Amtrak that require your support.

Due to these pressing security funding needs, Amtrak's Board of Directors and its senior management are committed to doing as much as possible within the limits of Amtrak's internal finances. Amtrak's new Chief Risk Officer, a former high ranking DHS manager, has requested that Amtrak increase its canine units and work immediately to get more police and counter-terrorism security forces riding its trains. Amtrak has had great difficulty in filling its police and security staffing levels because its pay and retirement benefits are well below those of competing jurisdictions, resulting in double-digit attrition and a high vacancy rate. The Chief Risk Officer is working closely with Amtrak's authorizing committees to find some relief for this most serious problem.

#### **Employee & Passenger Security Awareness**

There is no substitute for having a well trained work force who can serve as the 'eyes and ears' and first line of defense in noticing suspicious activities and things that are 'out of place' on our railroad. Likewise, we need an alert and vigilant public, who know what to do and how to act before and during emergencies, and how to report to matters that warrant the carrier's attention.

Amtrak has followed the Federal Transit Agency's and the American Public Transit Association's lead in developing employee awareness training. Using security awareness training developed by Rutgers University National Transit Institute (NTI) for mass transit employees, the transit training modules were modified slightly and customized to address Amtrak's facilities and rail environment. An introductory block of security training, including some class, Web-based, and CD-based training was delivered to all Amtrak employees in FY 2006. This training was intended to be equivalent to "Security 101" for railroad workers. An additional four-hour training block for up to 14,000 employees is scheduled for FY 2007, with the first classes starting in January 2007. My Office reviewed this training, and we believe that it provides a good foundation of security awareness from which additional, more specialized training can be targeted for select employees.

Amtrak has also begun a limited version of the popular "see something, say something" program that is used by a number of transit properties. Amtrak had implemented a station and on-board announcements program, alerting the public to have control of their personal baggage and carry-on articles, and to report suspicious behavior during high threat levels declared at the national level. This program is being expanded to be a part of Amtrak's normal business practice.

The OIG believes Amtrak should consider other programs, to include programs for a LEO (law enforcement officer) rider's initiative and adaptation of the British Transport Polices HOT program, a more targeted employee training program to identify suspicious packages and reduce 'false-positive' results.

#### **Vulnerability Assessments & Security Planning**

We agree with the Committee's direction to mandate vulnerability assessments and security plans for the rail sector. We believe the Committee will find many carriers have already completed such assessments, but we suspect that many of these assessments are carrier-specific and not necessarily linked to larger system or nodal vulnerabilities. An appropriate role for an Area Rail and Public Security Committee, or larger DHS entity, would be to link the assessments and plans into a larger rail transportation security matrix.

Using DHS Office of Domestic Preparedness (now Grants & Training) funds, an external firm completed a vulnerability assessment for Amtrak's Northeast Corridor and Chicago Union Station in May 2006. Vulnerability assessments for the balance of most of Amtrak's system assets are scheduled to be delivered very shortly. We believe these assessments, while not exhaustive, provide a valuable mapping of the vulnerabilities of key Amtrak, and Amtrak-used, assets, but these are only starting points.

Vulnerability assessments must be tied to threat and risk-based analyses, which, in turn, drive coherent and coordinated defense, deterrence, mitigation, and recovery strategies. These strategies must be tied to 'best practices' to ensure that appropriate technologies, security and anti-terrorism processes, and human capital are invested wisely. Ultimately, the culmination of these efforts should result in an overall security plan that forms the bases for the "Deter and Detect (prevention) and Respond and Recover" activities.

Thus far, we have observed that certain aspects of rail security planning for the passenger sector are not mature and well integrated. For example, Amtrak shares space with a number of transit partners (over 20) in multi-modal stations but, with the exception of some operations and train movement protocols, the security plans of the rail partners are not all formally linked. Also, within certain facilities, not all stakeholders and facility users are fully aware of security and emergency response procedures. The overall security and risk focus appears to be very traditional in that security planning has been limited to facility ownership (and potential liability) rather than directed more broadly.

On the good news side, in many locations, there is strong information sharing between and among local operators and law enforcement on a daily basis, but these are oftentimes the result of personal relationships and networks. The strength of these relationships may change as personnel change, and we want to see stronger, more formal security networks between Amtrak and its rail and transit partners. Also promising, emergency response drills and exercises are being conducted with more regularity, and there is a growing body of "lessons learned" from the exercises, drills, and table-tops after-action reports that will assist investment decisions and changes in operational protocols.

#### **Information, Intelligence Sharing, & Special Security Efforts**

Amtrak participates in the Surface Transportation Information Sharing and Analysis Center (ST-ISAC), which was established and is maintained by the Association of American Railroads (AAR). The ST-ISAC provides useful information to Amtrak, especially in the areas of cyber-security and after-action threat analyses. Amtrak also participates in the Railway Alert Network (RAN), another AAR-maintained information and intelligence sharing system.

More recently, Amtrak placed personnel on the FBI's New York and Washington Field Office's Joint Terrorism Task Forces (JTTFs), and the National Joint Terrorism Task Force (NJTTF), with access to those units' intelligence centers. Additional Amtrak and OIG staff are assigned to various Department of Justice sponsored Anti-Terrorism Advisory Councils (ATACs) and working groups.

Another important development affecting Amtrak's Northeast Corridor was the creation of Northeast Rail Police Coalition. Last year, NYPD Commissioner Ray Kelly called for a summit of police chiefs and other high ranking law enforcement officials from New York City to Washington DC. Commissioner Kelly proposed a co-ordinated approach by city, state, and local law enforcement to improve passenger rail security. The group, comprised of NYPD, Amtrak Police, Baltimore City Police, Delaware State Police and Delaware Homeland Security, Metropolitan DC and Transit Police, New Jersey Transit Police, Philadelphia Police, and other New Jersey and Pennsylvania State law enforcement, agreed to provide periodic support to Amtrak by boarding trains with officers and bomb dogs at key stations, conducting surveillance of the track and other facilities, and conducting other protective measures. This coalition began their work starting in July 2006, and we are pleased to report has become an integral part of Amtrak's security operations.

During the last year, the Amtrak OIG has also placed a special emphasis on security at Washington DC's Union Station. Union Station is one of the most visited sites in the District and is a major transportation hub for Virginia and Maryland rail services as well as the anchor for Amtrak's Northeast Corridor. We have worked with Amtrak Police, local Amtrak managers, local property management, adjacent facility owners, and with transit and local police to establish a Station Action Team. This group is dedicated to sharing security and emergency preparedness information and will become a model for other major urban stations. The OIG facilitated the creation of this team, and we have prepared special security briefings that I would be happy to share with the Committee or interested Members in a closed setting.

#### **Recommendations**

Making rail security a national priority is a shared responsibility among a number of Federal departments and agencies, which also requires the full commitment of private and other public sector stakeholders.

##### **1. Technology Centers**

The Committee has recognized the need for more collaborative research and development and technology convergence to develop affordable and effective rail security solutions; we very much agree. There are considerable challenges for passenger carriers to find and apply the most appropriate security technologies to fit their environments. Much of what has been accomplished to date by passenger rail is accomplished by information exchanges through existing industry associations and through professional relationships and vendor marketing. There has been some as-

sistance provided by DHS in the form of providing screening equipment for pilot projects and special security events, but much more can be done in this area.

It is also appropriate to recognize important work being done in security technology advancement by the rail industry. The AAR maintains a Transportation Technology Center (TTCI) in Pueblo, Colorado, which is used for both testing and training purposes, and Amtrak routinely uses TTCI services for equipment testing.

#### **2. "Building In" Security**

Wherever possible, there should be criteria to guide design, engineering, and procurement activity with an agreed-upon set of security standards and requirements for capital projects. There is considerable opportunity for all carriers to examine their general capital spending programs to determine where security improvements can be made.

Amtrak plans to work with international engineering standards groups to determine what other nation's inter-city rail carriers are doing to build-in security into retrofitting projects as well as new construction.

#### **3. Standards Development**

One of the difficulties we have encountered in evaluating Amtrak's efforts to improve its security posture is the lack of security standards. Although some security directives were prepared by DHS in May 2004, these directives are not necessarily the comprehensive bases for an effective rail passenger security strategy.

The Committee should look to APTA, which is recognized as a Standards Development Organization, as a starting point to develop baselines for rail security and emergency preparedness best practices. Amtrak also is re-examining its responsibilities and will most likely develop its own baseline and security standards, working closely with its rail and transit partners, as well as DHS.

#### **4. Passenger & Baggage Screening**

In testimony in March 2006, the GAO reported on the results of their evaluations of the security practices of domestic and selected foreign transit operators ([www.gao.gov/new.items/d06557t.pdf](http://www.gao.gov/new.items/d06557t.pdf)). Included in their testimony were recommendations, with certain caveats, to consider implementing three practices they observed not being widely used: covert testing, random screening, and establishing a government-sponsored clearing house for technologies and best practices.

In my opinion, some level of passenger and limited baggage screening on Amtrak is inevitable, especially during times of high alert, when there is actionable intelligence, during special events, and when police and security believe such security steps add real value. Amtrak cannot go down the path of the aviation experience, but it will have to develop criteria that are defensible, consistent with its business model, and effective.

#### **Conclusions**

There are a number of good people trying to do the 'right thing' about rail security, but these efforts are not yet well integrated into a larger transportation strategy. Our collective oars are not in the water at the same time. Through your efforts, and with the help of Amtrak's authorizing and appropriations committees, I hope we find the convergence that leads to unified approaches to formulating security plans and processes.

In a moment of decision, the best thing you can do is the right thing. The worst thing you can do is nothing. (Theodore Roosevelt)

Ms. JACKSON LEE. Ms. Wilson?

#### **STATEMENT OF NANCY WILSON, VICE PRESIDENT FOR SECURITY, ASSOCIATION OF AMERICAN RAILROADS**

Ms. WILSON. Thank you very much, Madam Chairwoman. On behalf of the members of the Association of American Railroads, I want to thank you for the opportunity to discuss railroad industry security programs.

Freight railroads acted immediately to improve security after 9/11. We did not wait for government mandates to develop a comprehensive security plan. Within days of the terrorist attack, we created a top-level security task force comprised of more than 150 railroads.

Freight railroads acted immediately to improve security after 9/11. We did not wait for government mandates to develop a comprehensive security plan. Within days of the terrorist attack, we created a top-level security task force comprised of more than 150 railroad, customer and intelligence personnel to conduct an exhaustive evaluation of freight rail security issues.

The result was the AAR Terrorism Risk Analysis and Security Management Plan, a risk-based, intelligence-driven blueprint of actions designed to raise the baseline of freight rail security. The plan has been in effect since December 6, 2001. As a result of that plan, freight railroads enacted more than 50 permanent security countermeasures to address the terrorist threat. Railroads provided security awareness briefings to employees who were instructed to maintain high awareness and to immediately report suspicious activity.

In addition, the plan defines four progressively higher security alert levels and details a series of actions to be taken at each alert level. Railroads test the plan through tabletop exercises twice yearly and modify it as needed to ensure maximum continued effectiveness.

Because of the open nature of our 140,000-mile network, our security program relies heavily on timely receipt and analysis of intelligence information. To facilitate this, railroads established a 24/7 operation center that is in constant communication with government security agencies and individual railroad operations centers. A railroad police officer sits on the National Joint Terrorism Task Force to help assess information that may impact railroad security.

One area of particular concern for us is the movement of toxic inhalation hazard materials, or TIH. These commodities constitute .03 percent of our total freight volume, but are responsible for more than half of our insurance liability costs. Because railroads are common carriers, they are required to carry these materials whether they want to or not. The railroads comply with this government mandate, but in doing so they place their very existence at risk.

Experience has shown that accidents involving these commodities can result in huge judgments, even where no one gets hurt and the railroad is not at fault. The current environment for rail transportation of highly hazardous materials, especially TIH, is untenable. If the federal government is going to require railroads to transport these substances, it must address the bet the company risks it forces railroads to assume. Congress should address this either by enacting a liability cap or by relieving railroads of their common carrier obligation with respect to highly hazardous materials. In the long run, we believe, as does the GAO and the National Research Council, that less hazardous substances should be substituted for highly hazardous materials.

We also believe that forced re-routing does nothing to enhance security, but merely shifts potential risk from one area to another and could force railroads to less direct, less safe routes. Our security efforts rely heavily on our industry's dedicated and highly professional employees. They are our eyes and ears for security. Railroads train their employees to be vigilant, to report suspicious objects and activities, and to keep out of harm's way.

Railroads began implementing employee security training programs shortly after 9/11. Subsequently, railroads collaborated with the National Transit Institute at Rutgers University, which used funding from TSA to develop an interactive uniform security awareness curriculum for public transit employees. AAR adapted that curriculum for use by rail freight employees.

The standardized curriculum includes four modules entitled "What is Security?," "Vulnerability Risk and Threat," "What to Look For," and "The Employee's Role in Reducing Risk." The goal is to provide risk employees with an understanding of their roles and responsibilities, and how to implement their company's procedures upon detection of suspicious objects or activities.

It should be noted that railroads do not ask their operating employees to put themselves in harm's way. Instead, they are expected to follow the company's policies and procedures, inform the appropriate authority of the situation, move to a safe location, and wait for further instructions. Railroads employ railroad police and hazardous materials experts who are especially trained and equipped to handle potentially dangerous situations.

Recently, TSA inspectors conducted a survey of 2,600 freight rail employees and determined that 80 percent meet or exceed the desired level of security awareness. By the end of this year, all rail employees will have received this new training. Railroads are proud of the success they have achieved in enhancing security, while keeping our nation's vital rail network operating efficiently and safely. We will continue to work with the Congress, federal agencies and other relevant parties to improve security and safety even more.

Thank you.

[The statement of Ms. Wilson follows:]

PREPARED STATEMENT OF NANCY WILSON

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to discuss security from a freight railroad perspective. Members of the AAR account for the vast majority of railroad mileage, employees, and revenue in Canada, Mexico, and the United States.

Unlike U.S. passenger railroads and transit systems, U.S. freight railroads are, with minor exceptions, privately owned and operated, and they rely almost exclusively on their own earnings to fund their operations. Freight railroads are critical to our economic health and global competitiveness. They move approximately 40 percent of our nation's freight (measured in ton-miles)—everything from lumber to vegetables, coal to orange juice, grain to automobiles, and chemicals to scrap iron—and connect businesses with each other across the country and with markets overseas.

From 1980 through 2006, Class I<sup>1</sup> railroads spent more than \$370 billion—more than 40 cents out of every revenue dollar—on capital expenditures and maintenance expenses related to infrastructure and equipment. Non-Class I carriers had billions of dollars of additional spending. These massive, privately-funded expenditures help ensure that railroads can meet our current and future freight transportation demands safely and cost effectively.

As the Federal Railroad Administration (FRA) noted in testimony to this committee last week, "The railroads have an outstanding record in moving all goods safely." Indeed, nothing is more important for railroads than the safety and security of their operations. For railroads, safety and security are interconnected: a safer workplace will tend to be a more secure workplace, and a more secure workplace

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<sup>1</sup> U.S. freight railroads are classified on the basis of revenue. The seven Class I railroads each had revenue of at least \$319 million in 2005. Class I carriers comprise 1 percent of freight railroads, but account for 70 percent of the industry's mileage operated, 89 percent of its employees, and 93 percent of its freight revenue.

will tend to be a safer workplace. And railroads have become much safer. According to FRA data, railroads reduced their overall train accident rate by 64 percent from 1980—2005, and their rate of employee casualties by 79 percent. Railroads have lower employee injury rates than other modes of transportation and most other major industry groups, including agriculture, construction, manufacturing, and private industry as a whole.

We should also be encouraged by the continuing improvements in rail safety. Based on preliminary data for the first 11 months, 2006 was the safest year ever for railroads by the three most commonly-cited rail safety measures: the train accident rate, the employee casualty rate, and the grade crossing collision rate all reached record lows.

Freight railroads are justifiably proud of these accomplishments. At the same time, though, railroads want rail safety and security to continue to improve, and they are always willing to work cooperatively with members of this committee, others in Congress, the Department of Homeland Security (DHS), the FRA, rail employees, and others to find practical, effective ways to make this happen.

Below I will discuss the many ways that U.S. freight railroads have addressed security in the post 9–11 era and how security efforts (including hazmat security) can be improved.

#### **The Aftermath of September 11**

Almost immediately after the 9/11 attacks, the AAR Board of Directors established a Railroad Security Task Force. The overarching goals of this task force were to (1) help ensure the safety of rail employees and the communities in which railroads operate; (2) protect the viability of national and regional economic activity; and (3) make certain that railroads can continue to play their vital role in support of our military.

Over the next several months, the task force conducted a comprehensive risk analysis of the freight rail industry. Using CIA and national intelligence community “best practices,” five critical action teams (consisting of more than 150 experienced railroad, customer, and intelligence personnel) examined and prioritized railroad assets, vulnerabilities, and threats. Critical action teams covered information technology and communications; physical infrastructure; operational security; hazardous materials; and military traffic needs. Freight railroads also cooperated fully with a separate team covering passenger rail security.

#### **The Railroad Terrorism Risk Analysis and Security Management Plan**

The end result of these analyses was the creation of the industry’s Terrorism Risk Analysis and Security Management Plan, a comprehensive, intelligence-driven, priority-based blueprint of actions designed to enhance freight rail security. The plan was adopted by the AAR in December 2001 and remains in effect today.

As a result of the plan, freight railroads quickly enacted more than 50 permanent security-enhancing countermeasures. For example, access to key rail facilities and information has been restricted, and cyber-security procedures and techniques have been strengthened. In addition, the plan defines four progressively higher security alert levels and details a series of actions to be taken at each level:

*Alert Level 1* is “New Normal Day-to-Day Operations” and exists when a general threat of possible terrorist activity exists, but warrants only a routine security posture. Actions in effect at this level include conducting security training and awareness activities; restricting certain information to a need-to-know basis; restricting the ability of unauthorized persons to trace certain sensitive materials; and periodically testing that security systems are working as intended.

*Alert Level 2* (the level in effect today) is “Heightened Security Awareness.” It applies when there is a general non-specific threat of possible terrorist activity involving railroad personnel and facilities. Additional actions in effect at this level include security and awareness briefings as part of daily job briefings; content inspections of cars and containers for cause; and spot content inspections of motor vehicles on railroad property.

*Alert Level 3* means there is “a credible threat of an attack on the United States or railroad industry.” Examples of Level 3 actions include further restricting physical access and increasing security vigilance at control centers, communications hubs, and other designated facilities, and requesting National Guard security for critical assets.

*Alert Level 4* applies when a confirmed threat against the rail industry exists, an attack against a railroad has occurred, an attack in the United States causing mass casualties has occurred, or other imminent actions create grave concerns about the safety of rail operations. Security actions taken at this level include stopping non-mission-essential contractor services with access to critical facilities and systems; increasing vigilance and scrutiny of railcars and equipment during mechanical inspec-

tions to look for unusual items; and continuous guard presence at designated facilities and structures.

*Alert Levels 3 and 4* can be declared industry-wide for a short period of time or, if intelligence has identified that terrorist action against a specific location or operation is imminent, for a particular geographic area (e.g., the Midwest) or subset of rail traffic (e.g., hazardous materials).

Railroads test their security plan through table-top exercises twice yearly, and evaluate and modify it as needed to ensure maximum continued effectiveness.

Access to pertinent intelligence information is a critical element of the plan. To this end, the rail industry is in constant communication with the Transportation Security Administration (TSA) and elsewhere within DHS, the Department of Defense (DOD), the Department of Transportation (DOT), the FBI's National Joint Terrorism Task Force (NJTTF), state and local law enforcement, and others. A railroad police officer and railroad analysts who hold Top Secret clearances work with government intelligence analysts at NJTTF and at DHS to help evaluate intelligence and serve as subject matter experts.

Intelligence information, in turn, is disseminated through the Railway Alert Network (RAN), a secure 24/7 communications network operated by the AAR at the Secret level that links federal security personnel with railroad operations centers. Through the RAN, railroads and the intelligence community share information to maintain situational awareness and immediately institute appropriate alert levels.

Communication is also enhanced by the Surface Transportation Information Sharing and Analysis Center (ST-ISAC), which was established by the AAR at the request of the DOT. The ST-ISAC collects, analyzes, and distributes security information from worldwide resources to help protect vital information technology systems and physical assets from attack. It operates 24/7 at the Top Secret level. The ST-ISAC grew out of Presidential Decision Directive 63 (May 22, 1998), which recognizes freight railroads as "essential to the minimum operations of the economy and government."

Rail security efforts strongly benefit from the fact that major railroads have their own police forces. Security would be enhanced if police officers of one railroad were permitted to exercise law enforcement powers on the property of another railroad. This flexibility could prove especially valuable in the event of a national security threat involving an individual railroad. AAR strongly supports legislation, such as S. 184 (the "Surface Transportation and Rail Security Act of 2007") that would grant this flexibility.<sup>2</sup>

Notwithstanding rail industry efforts, there can be no 100 percent guarantee against terrorist assaults, including assaults involving hazardous materials (hazmat) on railroads. If such an incident occurs, railroads have well-established programs and procedures that would be invoked that are designed to respond to and minimize the impact of such incidents.

In this regard, emergency response efforts are critical. Railroads help communities develop and evaluate hazmat emergency response plans. Through their own efforts and the Transportation Community Awareness and Emergency Response Program (TRANSCAER), they provide basic training for more than 20,000 emergency responders each year.

In addition, more than 20 years ago, the AAR established the Emergency Response Training Center (ERTC), a world-class training facility that is part of the Transportation Technology Center, Inc. (TTCI) in Pueblo, Colorado. The ERTC has provided in-depth hazmat emergency response training to more than 38,000 emergency responders and railroad and chemical industry professionals from all over the country and abroad. Most recently, the ERTC agreed to provide critical training for 100 new rail security inspectors hired by the TSA. This summer, ERTC will be training NJTTF personnel.

The ERTC is considered by many to be the "graduate school" of hazmat training because of its focus on comprehensive, hands-on training using actual rail equipment. TTCI boasts a collection of around 70 rail freight cars (including tank cars), some 15 rail passenger cars, 25 highway cargo tanks, van trailers, and intermodal containers, as well as computer work stations equipped with the latest emergency response software. TTCI is currently developing a Passenger Railcar Security and Integrity Training Facility to test the effectiveness of various response and remediation techniques in mitigating incidents involving passenger trains. This facility focuses on chemical, biological, radiological, nuclear, or explosive incidents and other activities associated with potential terrorist events.

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<sup>2</sup>The measure was also contained in legislation (H.R. 2351) introduced in the 109th Congress sponsored by Rep. James Oberstar, chairman of the House Transportation and Infrastructure Committee.

The AAR strongly supports legislation soon to be introduced by Rep. John Salazar that would make TTCI a member of the National Domestic Preparedness Consortium (NDPC), which is a group of premier institutions that develop, test, and deliver training to state and local emergency responders. Today, a facility specifically targeted at emergency response training for freight and passenger railroad environments is notably absent from the NDPC. Including TTCI in the NDPC offers a unique opportunity to improve our nation's ability to prevent, minimize, and respond to potential rail-related terrorist attacks similar to those witnessed in London and Madrid.

The rail industry is pleased that many members of Congress have had the opportunity to visit TTCI in person. I extend an open invitation to all members of this committee to visit the facility where they can gain first-hand knowledge of its capabilities.

#### **Hazardous Materials Movements by Rail**

Each year, 1.7 to 1.8 million carloads of hazardous materials are transported by rail in the United States, with two-thirds moving in tank cars. "Toxic inhalation hazards" (TIH)—gases or liquids, such as chlorine and anhydrous ammonia, that are especially hazardous if released—are a subset of hazardous materials and are a major (though not exclusive) focus of hazmat-related rail safety efforts. In each of the past couple of years, railroads have transported just over 100,000 carloads of TIH, virtually all in tank cars.

Railroads recognize and deeply regret the occurrence of a few tragic accidents involving hazardous materials over the past couple of years. Nevertheless, the rail hazmat safety record is extremely favorable. In 2005, 99.997 percent of rail hazmat shipments reached their final destination without a release caused by an accident. Railroads reduced hazmat accident rates by 86 percent from 1980 through 2005.

Still, no one disputes that efforts should be made to increase hazmat safety and security where practical. Railroads understand this better than anyone. Today, the federal government, through the railroads' common carrier obligation, requires railroads to transport highly-hazardous materials, whether railroads want to or not. Unlike firms in other industries, including other transportation companies, railroads today have not been able to "just say no" to entering into a business relationship with consumers or manufacturers of these materials.

Absent railroads' common carrier requirement, many railroads would not transport these materials because of the potentially ruinous claims that could arise in the event of a catastrophic accident involving a release of these materials. Indeed, while accidents involving highly-hazardous materials on railroads are exceedingly rare, history demonstrates that railroads can suffer multi-billion dollar judgments, even for accidents where no one gets hurt and the railroads do nothing wrong. Drunk drivers, impatient motorists driving around a grade crossing gate or ignoring a signal at a grade crossing, faulty repairs by the owner of a tank car, and pranksters—not terrorists—have caused incidents that could have been disastrous if they had involved the release of these materials.

A few years ago in New Orleans, a tank car that railroads did not own containing more than 30,000 gallons of liquid butadiene began to leak. Vapor from the butadiene tank car rolled out across a neighborhood until the pilot light of an outdoor gas water heater ignited it. More than 900 people were evacuated. The National Transportation Safety Board found that the probable cause of the accident was an improper gasket that a chemical company had installed on the tank car. Nevertheless, a state court jury entered a punitive damages verdict against the railroads involved in the amount of \$2.8 billion.

In essence, the transport of highly-hazardous materials is a "bet the business" public service that the government makes railroads perform.

Railroads face these huge risks for a tiny fraction of their business. In 2005, railroads moved just over 100,000 TIH carloads and nearly 37 million total carloads. Thus, shipments of TIH constituted only about 0.3 percent of all rail carloads. The revenue that highly-hazardous materials generate does not come close to covering the potential liability to railroads associated with this traffic. Moreover, the insurance industry is unwilling to fully insure railroads against the multi-billion dollar risks associated with highly-hazardous shipments. And even though TIH accounts for a tiny fraction of rail carloads, it contributes approximately 50 percent of the rapidly-rising overall cost of railroad insurance.

For all these reasons, the current environment for the rail transportation of highly-hazardous materials, especially TIH, is untenable. If the federal government is going to require railroads to transport highly-hazardous materials, it must address the "bet the company" risk it forces railroads to assume.

Congress can address this inequity in one of at least three ways. First, Congress could create a statutory liability cap for the railroads similar to the one that applies to Amtrak. Amtrak's total liability for all claims, including punitive damages, from a single accident—regardless of fault—is capped at \$200 million. Congress could enact a similar type of cap on the liability a freight railroad would incur from an accident involving highly-hazardous materials, regardless of fault, with the government paying liabilities in excess of the cap.

Congress could also enact a Price-Anderson type solution. Price-Anderson limits the liability of a company from an incident involving the release of nuclear material, including in transportation, and provides for a fund to which all owners of nuclear power plants contribute when an incident occurs to cover any damages in excess of that limit. Under a similar proposal for TIH, the railroad would be liable for some defined amount of damages arising from a railroad accident involving a highly-hazardous material. Any damages above that defined amount would be paid from a fund to which producers and end-users of these materials would contribute in the event of an incident.

The main purpose of such legislation would be to cap the railroad's liability for claims, while still ensuring compensation for the general public. However, it also seeks to balance the societal need to compensate the injured and damaged with the need for any railroad involved to be able to continue to operate and remain viable.

Both of these proposals leave railroads with a substantial amount of liability. Both are also reasonable, given railroads' federally-imposed common carrier obligation and given that accidents occur even when railroads operate carefully and safely. Under either proposal, limiting freight railroads' liability from an accident involving highly-hazardous materials would reduce the railroads' risk exposure. It would also bring certainty to the insurance market, and hopefully more insurance companies would once again be willing to offer railroads coverage.

Absent these two alternatives, Congress should relieve railroads of their common carrier obligation to haul TIH and other highly-hazardous materials. If Congress will not provide some degree of protection from unlimited potential liability from transporting these materials, then it should not mandate that the railroads' shareholders assume that risk. Rather, railroads should be permitted to decide for themselves whether to accept, and at what price they are willing to accept, such materials for transportation.

#### *What Railroads Are Doing*

In the meantime, railroads support prompt, bold actions by all stakeholders to reduce the risks associated with hazmat transport. Railroads themselves are taking the lead:

- In December 2006, an industry committee approved a new standard for chlorine and anhydrous ammonia tank cars that will significantly reduce the risk of a release. (Anhydrous ammonia and chlorine combined account for around 80 percent of rail TIH movements.) The standard will be phased in beginning in 2008.<sup>3</sup>
- As noted earlier, railroads help communities develop and evaluate emergency response plans; provide training for more than 20,000 emergency responders each year through their own efforts and the Transportation Community Awareness and Emergency Response Program (TRANSCAER); and support Operation Respond, a nonprofit institute that develops technological tools and training for emergency response professionals.
- Railroads work closely with chemical manufacturers in the Chemical Transportation Emergency Center (Chemtrec), a 24/7 resource that coordinates and communicates critical information for use by emergency responders in mitigating hazmat incidents.
- Upon request, railroads provide local emergency response agencies with, at a minimum, a list of the top 25 hazardous materials transported through their communities. The list helps responders prioritize emergency response plans.
- For trains and routes carrying a substantial amount of highly-hazardous materials, railroads utilize special operating procedures to enhance safety.
- Railroads participate in a variety of R&D efforts to enhance tank car and hazmat safety. For example, the Tank Car Safety Research and Test Project (which is funded by railroads, tank car builders, and tank car owners) analyzes accidents involving tank cars to help identify the causes of tank car releases and prevent future occurrences.

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<sup>3</sup>The delay in implementation is due to an FRA request.

- In addition to implementing their Terrorism Risk Analysis and Security Management Plan, railroads are working with DHS and the DOT to identify opportunities to reduce exposure to terrorism on rail property.
- Railroads offer hazmat awareness training to all employees who are involved in hazmat transportation. Employees responsible for emergency hazmat response efforts receive far more in-depth training.
- Railroads are pursuing a variety of technological advancements to enhance rail safety, including hazmat safety.
- Railroads are working with TIH manufacturers, consumers, and the government to explore the use of coordinated routing arrangements to reduce the mileage and time in transit of TIH movements.

*What Hazmat Manufacturers and Consumers Should Do*

Manufacturers and consumers of hazardous materials should take a number of steps to help ensure hazmat safety.

First, concerted efforts should be made to encourage development and utilization of “inherently safer technologies,” which involve the substitution of less-hazardous materials for highly-hazardous materials, especially TIH, in manufacturing and other processes. As noted in a recent report by the National Research Council (part of the National Academy of Sciences), “the most desirable solution to preventing chemical releases is to reduce or eliminate the hazard where possible, not to control it.” Ways this can be achieved include “modifying processes where possible to minimize the amount of hazardous material used” and “[replacing] a hazardous substance with a less hazardous substitute.”<sup>4</sup> In a similar vein, in a January 2006 report, the Government Accountability Office (GAO) recommended that the Department of Homeland Security “work with EPA to study the advantages and disadvantages of substituting safer chemicals and processes at some chemical facilities.”<sup>5</sup>

One real-world example of product substitution occurred at the Blue Plains wastewater treatment facility just a few miles from the U.S. Capitol. Like many wastewater treatment facilities, Blue Plains used chlorine to disinfect water. Not long after 9/11, the facility switched to sodium hypochlorite, a safer alternative.

Railroads recognize that the use of TIH cannot be immediately halted. However, over the medium to long term, product substitution would go a long way in reducing hazmat risks.

Second, manufacturers and receivers of TIH, in conjunction with railroads and the federal government, should continue to explore the use of “coordination projects” to allow TIH consumers to source their needs from closer suppliers. For manufacturers and users, this could involve “swaps.” For example, if a chlorine user contracts with a chlorine supplier located 600 miles away, but another supplier is located 300 miles away, the supplier located 600 miles away might agree to allow the closer shipper to supply the user.

Third, hazmat consumers and manufacturers should support efforts aimed at increasing tank car safety and reliability. Recently, for example, the FRA, Dow Chemical, Union Pacific, and the Union Tank Car Company announced a collaborative partnership to design and implement a next-generation railroad tank car. (TTCI has been selected to support testing and developments initiatives related to this project.)

*What the Government Should Do*

The government too has a key role to play. First, as noted earlier, if the government requires railroads to transport highly-hazardous materials (via their common carrier obligation), it must address the “bet the company” risk this obligation forces railroads to assume.

Second, the government should help facilitate the “coordinated routing arrangements” and “coordination projects” mentioned earlier.

Third, the government should encourage the rapid development and use of “inherently safer technologies” to replace TIH and other highly-hazardous materials.

Fourth, the government should reject proposals that would allow state or local authorities to ban hazmat movements through their jurisdictions or order railroads to provide local authorities advance notification of hazmat movements through their jurisdictions.

The purposes of these types of proposals are protection of the local populace against hazmat incidents, including terrorist attack (especially in perceived “high threat” areas), and enhancing the ability to react more quickly to hazmat incidents. The proposals may be well intended, but the end result of their enactment on a lo-

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<sup>4</sup> *Terrorism and the Chemical Infrastructure: Protecting People and Reducing Vulnerabilities*, National Research Council—Board on Chemical Sciences and Technology, May 2006, p. 106.

<sup>5</sup> *Homeland Security: DHS is Taking Steps to Enhance Security at Chemical Facilities, but Additional Authority is Needed*, Government Accountability Office, January 2006, p. 7.

cality-by-locality basis would likely be an *increase* in exposure to hazmat release and *reduced* safety and security.

Banning hazmat movements in individual jurisdictions would not eliminate risks, but instead would shift them from one place to another and from one population to another. In shifting that risk, it could foreclose transportation routes that are optimal in terms of overall safety, security, and efficiency and force railroads to use less direct, less safe routes.

The rail network is not similar to the highway network where there are myriad alternate routes. In the rail industry, rerouting could add hundreds of miles and several days to a hazmat shipment, and those extra miles and days could be on rail infrastructure that is less suitable (for a variety of reasons) to handling hazmat. Additional switching and handling of cars carrying hazmat could be needed, as could additional dwell time in yards. As the Department of Justice and DHS noted in a joint brief opposing a proposed D.C. hazmat ban, the increase in the total miles over which hazmat travels and the increase in total time in transit would “increase their exposure to possible terrorist action,” and therefore potentially *reduce* safety and security.<sup>6</sup> The U.S. DOT also submitted a statement recognizing that banning hazmat shipments through certain areas reduces both safety and security.

If hazmat were banned in one jurisdiction, other jurisdictions would undoubtedly follow suit. In fact, that is already happening. In the wake of so far unsuccessful attempts by the D.C. City Council to ban hazmat movements through Washington, similar efforts are being discussed for Atlanta, Baltimore, Boston, Cleveland, Chicago, Las Vegas, Memphis, Philadelphia, Pittsburgh, and probably other cities too, as well as for all of California.

An integrated, effective national network requires uniform standards that apply nationwide. The clarity and efficiency that uniformity brings would be lost if different localities and routes were subject to widely different rules and standards, or if local and/or state governments could dictate what types of freight could pass through their jurisdictions. The problem is especially acute for railroads, whose network characteristics and limited routing options mean that disruptions in one area can have profound impacts thousands of miles away. These disruptions would negatively affect all rail traffic, not just hazmat traffic.

Thus, if policymakers determine that hazmat movements should be banned, they should be banned nationwide, rather than on a locality-by-locality basis.

Hazmat pre-notification to local authorities is problematic for several reasons and may not accomplish the goals of those seeking it.

First, upon request the rail industry already notifies communities of, at a minimum, the top 25 hazardous commodities likely to be transported through their area. In the event of a hazmat incident, train consists are available to emergency responders, and railroads, at TSA request, have agreed to provide movement data on all TIH cars.

Second, pre-notification would vastly increase the accessibility of hazmat location information. Making this information more accessible could increase vulnerability to terrorist attack by magnifying the possibility that the information could fall into the wrong hands.

Third, at any one time, thousands of hazmat carloads are moving by rail throughout the country, constantly leaving one jurisdiction and entering another. The vast majority of these carloads do not—and due to the nature of rail operations, cannot be made to—follow a rigid, predetermined schedule. The sheer quantity and transitory nature of these movements would make a workable pre-notification system extremely difficult and costly to implement, for railroads and local officials alike. That is why the fire chief of Rialto, California, commented, “You’d have to have an army of people to stay current on what’s coming through. I think it wouldn’t be almost overwhelming. It would be overwhelming.” The greater the number of persons to be notified, the greater the difficulty and cost.

Fourth, railroads provide training for hazmat emergency responders in many of the communities they serve, and they already have well-established, effective procedures in place to assist local authorities in the event of hazmat incidents.

Finally, since railroads already make communities aware of what types of hazardous materials are likely to be transported through their area and since they already provide 24/7 assistance for emergency responders (many of whom railroads have trained), it is not at all clear that information obtained by local authorities through a pre-notification system would improve their ability to respond to hazmat incidents in any meaningful way.

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<sup>6</sup>It has been estimated, for example, that a ban on hazmat transport through the District of Columbia would result in some 2 million additional hazmat car-miles as carriers had to use circuitous alternative routes.

### Rail Employee Security Training

Railroad security efforts depend a great deal on the efforts of railroads' dedicated and highly-professional employees—including engineers and conductors aboard trains; maintenance of way crews, inspectors, and signalmen working along railroad rights-of-way; railroad police officers; and others. They are the "eyes and ears" in the industry's security efforts, and we should all be grateful for their vigilance and care.

In terms of employee security training, the freight rail industry's focus has been on "see something, say something," and "keep out of harm's way." The training has encompassed topics such as what to do when an employee sees a stranger or suspicious activity on rail property; to whom an anomaly should be reported; the need to keep information about train movements and cargos confidential; and the need to keep rail property secure and safe.

With 9/11, it became clear to railroads, as it did to firms in other industries, that security awareness would have to take on new importance. In response, Class I railroads soon thereafter provided a training video and/or printed materials to all employees—in most cases mailing the materials to employees' homes—that could be characterized as "Security Awareness 101." In the materials, the railroads expressed to their employees three fundamental expectations that to this day remain cornerstones of rail employees' responsibilities regarding security: don't put yourself in danger; report suspicious activities on or around railroad property; and don't divulge sensitive information about rail operations to others.

Over time, freight railroads began to incorporate security issues in a more formal fashion—for example, as part of employees' periodic FRA-mandated safety rules recertification, as part of new-hire training, and as part of new manager training. Many railroads have incorporated security issues into employees' manual of standard operating practices. Moreover, all railroads are compliant with U.S. DOT-managed HM-232 security training for employees who handle hazardous materials.

More recently, railroads concluded that rail security would be enhanced if rail employee security training was more harmonized across railroads through use of a standardized curriculum, and railroads have made that harmonization a reality.

Much has been done in collaboration with the National Transit Institute (NTI) at Rutgers University. NTI was established under the Intermodal Surface Transportation Efficiency Act of 1991 to develop, promote, and deliver training and education programs for the public transit industry. Freight railroads are fortunate to have been able to take advantage of NTI's success in promoting safety and security in public transit to develop an interactive, uniform security awareness curriculum for freight railroad employees.

The standardized curriculum has four modules: *What is Security; Vulnerability, Risk, and Threat; What to Look For; and Employees' Role in Reducing Risk*. The goal of the standardized curriculum is to provide rail employees with an understanding of their role and responsibility in system security, and how to implement their companies' procedures upon detection of suspicious objects or activities.

For example, one module of the curriculum focuses on what system security entails in a general sense—*i.e.*, the use of operating and management policies and procedures to reduce security vulnerabilities to the lowest practical level, as well as a process focusing on preventing all levels of crime against people and property. Under a system security approach, rail employees are taught to realize that they and their duties are part of a larger, extensive system and that system security begins with the employee. To that end, employees are encouraged to be observant and to be familiar with their companies' policies and procedures in the event of a threat or incident.

Another module of the curriculum covers how to identify suspicious or dangerous activities. In the case of suspicious individuals, the focus is on behavior—specifically, where the person is, when he or she is there, and what he or she is doing. Railroads know that their employees know their daily work area better than anyone and are in the best position to determine if something looks wrong or is out of place. Thus, employee training emphasizes being familiar with the work area; observing and reporting suspicious activities and objects; reporting missing or malfunctioning equipment; and, if appropriate and endorsed by railroad policies, approaching and engaging persons to resolve or confirm suspicions. Rail employees are not to approach threatening people; try to intervene in dangerous activities; or pick up, touch, or move suspicious objects. They are expected to withdraw from dangerous environments and situations and are expected to report dangerous situations immediately.

As part of the standardized curriculum, employees are also trained how to react to threats, which may take the form of perceived suspicious activity, suspicious and/or out-of-place objects or vehicles, evidence of tampering with equipment, phone

calls or other warnings, or other circumstances. Again, railroads do not expect their employees to "play the hero" by potentially putting themselves in harm's way. Instead, they are expected to follow their company's policies and procedures, inform the appropriate authority of the situation, move to a safe location, and wait for further instructions.

We submitted our employee security training program both to DHS and to FRA for review and comment in February 2006. TSA reviewed the rail industry's training program, and advised us that it is "relevant and up-to-date" and is "helpful" in "rais[ing] the baseline of security-related knowledge."

Class I railroads will complete security training for front-line workers (security personnel, dispatchers, train operators, other on-board employees, maintenance and maintenance support personnel, and bridge tenders) by the end of this year. Going forward, rail employee security training will be documented and records of it maintained.

As the information noted above makes clear, railroads treat very seriously their obligations in regard to security and have made sustained, earnest efforts to provide their employees with the tools and training they need to react appropriately when security-related issues arise. Moreover, railroads are not standing still in this regard. Through their efforts with NTI and others, railroads are continually refining their training efforts to improve their usefulness and effectiveness. Railroads are also always open to reasonable, constructive suggestions on how employee security training can be improved.

At times, though, some rail industry critics, including some elements within rail labor, are not always constructive or reasonable. Members of this committee should be made aware that most major freight railroads are currently engaged in negotiations concerning a new national collective bargaining agreement with more than a dozen unions representing rail industry employees. During this period of negotiations, union leaders have at times engaged in self-serving tactics aimed at the bargaining table that misrepresent the industry's strong record of safety and security. A case in point is a recent Teamsters-sponsored attack on the rail industry disguised as a "study" of security gaps on U.S. railroads.

#### **Railroad Security Legislation**

A number of proposals have been offered in the Senate and House of Representatives regarding railroad security. Freight railroads are always ready and willing to discuss how security can be enhanced more effectively. To that end, railroads support provisions of rail security legislation, some of which are found in S. 184 (the "Surface Transportation and Rail Security Act of 2007") that:

- Provide funding for rail security research and deployment projects and rail security technologies.
- Require federal authorities to develop a comprehensive security plan that identifies the most important rail assets and the biggest threats to those assets. The AAR's security plan should be the basis for this federal effort.
- Are built upon sound risk management principles, not just reactions to "what if" scenarios. Given the limited resources of all parties involved, not every risk can be mitigated. Risk mitigation steps that do not meaningfully alleviate substantive risks or are not cost effective actually degrade security because they take away resources that could be better spent enhancing security in other ways.
- Address the "bet the company" risk railroads must assume because of their common-carrier obligation to carry highly-hazardous materials.
- Allow police officers of one railroad to exercise law enforcement powers on the property of another railroad.
- Establish a proper balance between efforts to enhance security and allowing the free flow of goods that is critical to our societal and economic health.
- Encourage rapid development and implementation of "inherently safer technologies" as substitutes for highly-hazardous materials, especially TIH.
- Encourage cooperative efforts by TIH transporters, manufacturers, and users to work with appropriate government agencies to move TIH over shorter appropriate routes through "market swaps" and other collaborative arrangements. The overarching goal should be to reduce TIH mileage and time in transit.
- Ensure that any technology that is mandated to track and locate rail cars carrying hazmat and/or to identify actual or imminent hazmat release is fully proven, functional, reliable, and cost effective, and does not impede or endanger existing railroad systems.
- Make expenses mandated by the government (including mandates that result from high-risk corridor assessments) eligible for critical infrastructure protection grants.

- Ensure that a non-profit railroad research facility is an eligible recipient of rail security and R&D grants.
- Make TTCI a member of the National Domestic Preparedness Consortium.
- Engage the expertise and experience of rail industry personnel as significant domestic intelligence assets.

#### **Passenger Railroads**

More than 90 percent of the mileage over which Amtrak operates, as well as large portions of the trackage over which many commuter railroads operate, are actually owned and maintained by freight railroads. Therefore, actions taken by freight railroads to enhance security also benefit passenger rail. Freight rail security officials coordinate with and support Amtrak and commuter rail security officials to, among other things, increase uniformed police presence in rail passenger stations. Amtrak, commuter rail and transit authorities, and freight railroads receive and share information through the RAN and the ST-ISAC.

That said, freight railroad security plans and procedures are not specifically designed to protect passengers or substitute for actions that Amtrak or other passenger railroads might choose or be requested to take. Moreover, freight railroads should not be expected to cover costs associated with passenger rail security, and steps taken to enhance passenger security must be designed to minimize undue interference with freight railroad operations.

#### **Conclusion**

U.S. freight railroads are proud of the success they achieved in keeping our nation's vital rail transport link open following the September 11, 2001 terrorist attacks. Since then, railroads have taken many steps to increase the security of our nation's rail network, including the development of a comprehensive security management plan that incorporates four progressively severe alert levels. Railroads will continue to work with this committee, others in Congress, federal agencies, and all other relevant parties to further enhance the safety and security of our nation's railroads and the communities they serve.

Ms. JACKSON LEE. Let me thank you for your testimony.

I now recognize Mr. Schiliro from MTA to summarize his statement for 5 minutes.

#### **STATEMENT OF LEWIS G. SCHILIRO, DIRECTOR OF INTERAGENCY PREPAREDNESS, METROPOLITAN TRANSPORTATION AUTHORITY, STATE OF NEW YORK**

Mr. SCHILIRO. Good afternoon, Madam Chairwoman, and members of the subcommittee. I also would like to thank you for the opportunity to appear here today.

I am currently the director of interagency preparedness at the MTA. I joined the MTA in 2005, after having served with the FBI for 25 years. During that time, I was assigned as the agent in charge of both domestic and international terrorism in the FBI's New York office, and I subsequently served as director of that office from 1998 until 2000.

My role currently is to ensure that the actions we are taking in light of 9/11, Madrid, London, Tokyo and Mumbai will prepare the MTA to respond to terrorists and other emergency situations. The MTA is the largest transit provider in the Western Hemisphere, with over 8 million daily subway, rail and bus rides—one-third of all rides taken in the U.S. In addition, 900,000 vehicles cross our seven bridges and two tunnels each day, carrying over 1.4 million people.

Certainly, 9/11 was traumatic for New York and our system. With three subway stations at Ground Zero and hundreds of express and local buses serving its perimeter, we served more than 80 percent of the Center's 50,000 workers. We were fortunate that day. No one was killed or injured on our system. But 9/11 focused us on making our system even more secure. With our partners in

New York City, New York State, and the federal government, we did risk assessments to figure out what we needed to do better.

Those assessments identified \$2 billion to \$3 billion in capital needs. We immediately launched a two-phased capital investment program to address those needs and harden our system. Phase One, comprised of about \$720 million, is now nearing completion. While I can't detail in public many of the projects we have undertaken, one of the most visible initiatives we have done is to install over 1,000 surveillance cameras and 3,000 motion detectors in our subways and railroads as part of a \$260 million integrated electronic surveillance system.

We have just begun work on the \$495 million Phase Two program, which takes, in turn, the next most critical projects. While the first phase is largely funded, Phase Two remains largely unfunded. We need your help with these efforts, since current DHS assistance is simply not structured to help with such a large, but essential, capital investment security program. DHS assistance has been helpful with what we refer to as "soft capital" emergency equipment—radios, bollards and training, where monies are provided to help with emergency preparedness drills.

Since 2003, we have received \$88 million, only a small portion of the \$300 million to \$400 million we have spent in local funds such as growing our police department by 39 percent, to 755 officers, at a cost of over \$70 million, plus an additional \$37 million in overtime since 2002. We have hired an additional 261 bridge and tunnel officers at a cost of \$101 million. We spent \$10 million to create and equip a 50-dog canine unit, which are specially trained for bomb detection. We have added two MTA police department emergency service units at a cost of \$6 million.

Costly, but necessary equipment, training and communications are also underway. We have also continued to undertake real-life emergency drills on all parts of the MTA system, something that we have always done. In addition, all key operating employees are provided formal security training, and we are currently working with our employees and the unions to update and review what we do to improve that training even more—something that is definitely needed.

We have also focused on making sure that our customers are aware of how they should respond in emergencies. We have created the now internationally known, "If you see something, say something," campaign, telling our customers in print and radio to be vigilant. Enlisting their help has given them an outlet to report suspicious activities. Publicly sponsored, it has been very positive, and we have shared our materials with dozens of systems and municipalities around the globe.

While I have touched briefly on federal funding, I would like to talk about DHS assistance more briefly. You know the national numbers, but they mean more in the context of the eight million daily riders we provide. In comparative terms, in 10 weeks we will have transported more people than the domestic airlines do all year, and we are but one-third of the daily transit ridership nationally. And yet the federal government has spent over \$24 billion on aviation security since 2001, but only \$549 million on transit security.

We don't deny that aviation security is critical and we are appreciative of what has been done and provided, but we need you to address this dramatic inequity as you shape the DHS authorization. We have worked closely with Congress to increase federal transit funding from the \$65 million provided in 2003, \$50 million in 2004, to the \$175 million provided in 2006 for transit passenger and freight rail security. But those amounts, taken together, barely make a dent in addressing the \$6 billion need.

We look forward to your efforts to help us address the global transit needs through an authorization bill, and we applaud past efforts to do so. We have worked closely with the American Public Transportation Association, and share in their concerns. We desperately need a funding program that is based on objective and current risk and vulnerability assessments applied on a national basis, annual transit and rail security funding over the next 10 years that provides transit with a minimum of \$500 million to \$600 million year, a program that doesn't require local match. Even though in New York we have spent a lot of our own money, such investments are fundamentally a federal responsibility and should be based on risk, not on the localities' ability to match.

The federal government could also be the most helpful in developing safety and security best practices, guidelines and product standards, and most importantly, on research and development in technology, as technology will play a critical role in future security efforts.

Madam Chair, in light of the nation's heightened security needs since 9/11, we believe that increased federal investment in public transportation security by Congress and DHS is critical. We urge Congress to act decisively to create a formal structure for transit, rail and bridge security funding, and we look forward to working with you toward such a goal.

Thank you, and I look forward to any questions that you may have.

[The statement of Mr. Schiliro follows:]

PREPARED STATEMENT OF LEWIS G. SCHILIRO

Good afternoon Chairwoman Jackson-Lee, Ranking Member Lungren, Chairman Thompson, Congressman King, members of the Subcommittee. My name is Lewis Schiliro, and I'm the Director of Interagency Preparedness at the NYS State Metropolitan Transportation Authority (MTA.) I joined the MTA in 2005 after having served with the FBI as Assistant Special Agent in Charge of both domestic and international terrorism cases in the FBI's New York office from 1994—1995 and subsequently as director of that office from 1998—2000.

My role at the MTA is to ensure that the actions we are taking in light of 9/11, Madrid, London, Tokyo and Mumbai, to prepare our organization to respond to terrorist and other emergency incidents, are the most efficient and effective in terms of their impact on our mission to provide as secure an environment for our customers as possible. I will talk about that, our relationship with DHS and the federal government, and what our security needs are going forward.

As you may know, the MTA is the largest transit provider in the Western Hemisphere and is comprised of several operating entities:

- MTA New York City Transit (NYCT)
- MTA Long Island Rail Road (LIRR)
- MTA Long Island Bus (LIBus)
- MTA Metro-North Railroad (MNR)
- MTA Bridges and Tunnels (B&T)
- MTA Capital Construction (MTA CC)
- MTA Bus Company (MTABus)

We provide over 8 million subway, rail and bus rides each day in the NY metro area—roughly one third of all transit rides nationally. Approximately 900,000 vehicles cross our 7 bridges and 2 tunnels each day, carrying over 1.4 million passengers.

#### *The Impact of 9/11 on the MTA*

Certainly 9/11 was traumatic for the New York metropolitan region and our system. We were front and center at Ground Zero, with 3 subway stations directly serving the Trade Center site and hundreds of express and local buses serving its perimeter. It's likely that more than 80% of the Trade Center's 50,000 workers took one or more MTA services to get to work each day.

As tragic as the day was for New York, there was one positive for the MTA. Despite one completely destroyed station and 4 others that were completely put out of service for as much as a year, not a single MTA customer or employee was killed or seriously injured in or on our system. On 9/11 our subways whisked tens of thousands of riders from the center of the World Trade Center site to safe locations north and south. Our buses and subways evacuated millions more from Manhattan island. Our railroads took shocked commuters safely to their homes and returned with rescue workers who had no other way to get into the City to help.

Since then we have done much work, both internally and with our partners in NY City and NY State, the federal government and the broader transit industry, to assess the risks of future acts of terror on our system and to try to minimize them. We are doing so through a series of capital and operating investments in the system and additional employee training for our 65,000 employees. Let me first talk about the capital and operating investments.

#### **Capital and Operating Security Investments**

In 2002, with the assistance of the Federal Transit Administration, we conducted the first of a number of system-wide risk assessments, identifying between \$2 and \$3 billion in needs. We immediately launched the first Phase of a two-Phase capital investment program to address those needs and harden our system. Phase I, comprised of \$720 million in investments is now nearing completion. While I cannot go into detail in public about many of the projects we have undertaken, one of the most visible initiatives we've undertaken are the over 1,000 surveillance cameras and 3,000 motion sensors we are adding to our subways and commuter rail facilities as part of a \$260 million Integrated Electronic Security System. We have just begun work the \$495 million Phase II, which takes, in turn, the next most critical projects.

Of this more than \$1.2 billion total, the only federal capital assistance we received was in the immediate aftermath of the 9/11 attack itself—\$143 million from FEMA. That funding was not so much structured to address security risks, but to upgrade infrastructure we were replacing. That has left us with the task of identifying funds for the remainder, and while we have identified local funds for the balance of Phase I, Phase II remains largely unfunded. We need your help with those efforts, since current DHS assistance is simply not structured to help with such large—but essential—capital-intensive security investments.

What DHS assistance *has* been helpful with has been what we refer to as “soft-capital,” which includes things like emergency equipment, radios and bollards, and “training” where monies are provided to help with emergency preparedness drills. We are very grateful for the \$88 million we’ve received to date since 2003, but even that represents a small portion of the \$300 million to \$400 million we’ve spent in local funds in those same areas since 2002.

For example, we’ve grown our police department by 39% to 755 individuals at an additional cost of more than \$70 million (plus an additional \$37 million in overtime) since 2002 and in the same time period have added 261 bridge and tunnel officers at a cost of \$101 million. The bridge and tunnel officers inspect vehicles entering our bridge and tunnel facilities. We’ve spent over \$10 million to create and equip a 50 dog bomb-sniffing team and have added two MTA PD emergency service units at an additional \$6 million. Additional equipment, training and communication efforts have also proven to be very costly, but necessary.

#### **Emergency Drills and Training**

We also continue to undertake real-life emergency drills on all parts of the MTA system. Much of the reason for our success in evacuating Manhattan on 9/11 was that our organization is and has been committed to preparing for emergencies. Our agencies have always done more than simply write volumes of emergency and response plans that sit on shelves. We drill those plans several times a year.

Some of what we experienced that day had been anticipated in previous emergency drills—though admittedly not on as large or dramatic a scale. Nonetheless,

the experience, lessons learned, and perhaps most importantly, the relationships forged in those exercises certainly saved lives that day.

Each of our operating agencies prepare for emergencies regularly in terms of both physical drills—with hundreds of participants—and table-top drills. NYCT, the largest member of the MTA family, operates 8,000 subway and 46,000 bus trips a day within New York City. Transit conducts four emergency drills annually in conjunction with the MTA PD, the LIRR, LIBus and MNR as well as the NYPD, the FDNY, the Emergency Medical Service (EMS) and the Office of Emergency Management (OEM).

In addition, all key NYCT operating employees are provided ongoing formal “eyes & ears” training; fire protection & evacuation training; and DuPont Safety training. Over 45,000 employees have taken these courses and we about to conduct a top to bottom update and review of those training courses in concert with our represented employees.

While FRA regulations already require one full-scale drill annually, the LIRR conducts a minimum of 4 major full-scale emergency drills annually, including one in NY's Penn Station, the busiest railroad station in the country. Likewise, MNR conducts a number of drills during the year, including one in Grand Central Terminal. The carefully crafted emergency scenarios require emergency responders to demonstrate skills in communications, fire fighting, rescue, extrication, hazardous material and first aid and include county, village and town Police, Fire and EMS services throughout Nassau and Suffolk, Westchester, Orange, Rockland, Dutchess and Putnam counties in NY and Fairfield and New Haven counties in CT.

Railroad emergency preparedness training is conducted at a number of locations, from Penn Station and Grand Central Terminal to major hubs such as Flatbush/Atlantic Ave Terminal, Jamaica Station, Grand Central Terminal, 125th Street, New Haven, as well as shop/yard facilities in New York and Connecticut.

MTA Bridges and Tunnels, which operates 7 bridges and 2 tunnels within NYC, the most notable of which includes the nation's longest suspension bridge, the Verrazano Bridge, has since conducted over twenty multi-agency (MTA PD, NYPD, FDNY, MTA, OEM) exercises that have tested preparedness; response; inter-agency cooperation; perimeter security; IED mitigation; Hazardous Materials Spills; decontamination, and even power reduction scenarios.

Since 9/11 we've had other real-life opportunities to test what we do on a regional scale. When the electrical grids in the Northeast went out on August 14th, 2003, we—along with our partners in emergency preparedness throughout the region—were able to safely evacuate of over 400,000 riders from both underground and elevated parts of our system. We're proud that there were no customer or employee injuries in those instances—a truly amazing feat.

#### *Engaging our Customers in Emergency Preparedness*

As you've heard today, we're committed to aggressively training and drilling our employees for potential emergencies. But we've also focused on making sure that our customers are aware of how they should respond in certain situations.

Through the creation of the widely recognized **“If You See Something, Say Something”** customer information campaign, we've informed our customers in print and on radio about being vigilant and in the process have enlisted their help by giving them an outlet to report suspicious activities: 1-888-NYC-SAFE. Public response has been extremely positive and we have shared our materials with dozens of transit systems and municipalities around the country and the globe.

In direct response to the lessons learned from the Madrid bombings—we both customized our ads to focus on packages left in transit vehicles and we've produced Customer Train Evacuation Brochures and internet-based evacuation videos that show how to properly evacuate subway and commuter railroad cars in an emergency. Printed copies of this information were distributed on our subway and rail cars. We've made both the printed material and videos available on our website, [www.mta.info](http://www.mta.info). In addition, we've made these videos widely available to local police departments, community groups and the public.

We also continue to supplement the more formalized training of our operating personnel with Employee Safety Guides for all our employees that tells them what to look for and how to react in emergencies.

#### **Federal Funding**

While I've touched briefly throughout my remarks on federal funding we've received since 9/11, I'd like to talk about DHS assistance more broadly. I know you have heard the national numbers on the inequities of transit funding on many occasions, but they bear repetition. I will do so today in the context of the number of transit riders who use our system alone. The 8 million daily rides we provide on our system is substantial. However, in comparative terms, in three days we move

as many people as Amtrak moves all year and in ten weeks as many as the domestic airline moves all year. And we're but one-third of the daily transit ridership nationally.

Nonetheless, the federal government has spent over \$24 billion on aviation security since 2001, but in the same period has allocated but \$549 million for transit security. We do not deny that aviation security is critical—and we are appreciative of what has been provided to transit—but we need you to look at this dramatic inequity as you shape a DHS authorization.

We have worked hard with Congress to increase federal transit funding from the \$65 million provided in 2003 and \$50 million in 2004 to the \$175 million provided in 2006 for transit, passenger and freight rail security, but those amounts, taken together, barely make a dent in addressing the \$6 billion in needs identified nationally for transit systems alone.

We look forward to your efforts to help us address the global transit need through an authorization bill and we applaud past efforts to try and do so. For example, the Senate in 2004 and 2006 passed legislation that would provide \$3.5 billion over 3 years for transit security. Late last week Senate Banking once again advanced similar legislation and we anticipate it will move forward through the full body. Similar attempts have been made in the House. We hope those efforts will serve as the basis for a formal authorization.

As far as the structure of such an authorization effort is concerned, we have worked closely with our colleagues in our national trade association, the American Public Transportation Association (APTA), to set forth a set of principles that we believe would guide a successful effort. Funding is, of course, fundamental to addressing the security need of transit systems nationwide. Annual transit and rail security funding needs can most likely be addressed over the next ten years through a program that provides a minimum of \$500—\$600 million a year.

In addition, any funding must be structured to provide maximum flexibility for local entities to use them for both hard and soft costs such as the cost of additional transit agency and local law enforcement personnel; funding for over-time costs and extra security personnel during heightened alert levels, and; training for security and other transit personnel.

We also urge Congress to resist requiring local match. While in the MTA's case, we've spent many local dollars, philosophically, the required security investments are fundamentally a federal responsibility and should be based on risk, not on a locality's ability to match.

The federal government could also be most helpful in developing safety and security best practices, guidelines and product standards. At the MTA we are regularly approached by companies who assert that they have the best security products on the market, but we have no independent way of knowing if those claims are true and against which standards they should be judged. We end up being the test bed for some of these products—a costly and time consuming process for individual transit properties.

Madame Chair, in light of the nation's heightened security needs since 9/11, we believe that increased federal investment in public transportation security by Congress and DHS is critical. Terrorist attacks against U.S. citizens are clearly a federal responsibility and the federal government needs to step up to the plate with adequate support for transit security improvements. We at the local level are doing far more than our share in this effort and we need the federal government to be a full partner across the range of transportation modes. We urge Congress to act decisively to create a formal structure for transit, rail and bridge security funding. Thank you and I look forward to any questions you may have.

**Ms. JACKSON LEE.** Thank you very much, Mr. Schiliro. You are a very good lobbyist, and we thank you for your testimony.

I thank all the witnesses for their testimony.

I will remind each member that he or she will have 5 minutes to question the panel.

I will now recognize myself for questions.

I will start out simply by indicating that I believe that we have unanimity in this committee on the idea of risk-based funding. Certainly, you lay out a very stark contrast by way of funding between aviation security by the federal government, and transit and rail and commuter security.

Whenever we say this, of course, we qualify it by saying that we do understand 9/11's original generation, if you will, but we also emphasize the creativity of those who wish to do us harm. That is why we are holding this hearing. I would like to pose questions to Ms. Wilson. I am going to rapidly try to go through the questions.

Ms. Wilson, why don't you begin by thinking about a very unique point that you made about the liability question with rails and the transfer of hazardous materials. There are overlapping issues there. I want to make sure you distinguish safety from security. Safety is one issue, of course. It is very important, for it is the precipitous actions of others that we might not be aware of. How would you respond to that?

I am going to give a series of questions, so if you would focus on that.

Mr. Weiderhold, you may recall that according to the GAO, the FRA has been focusing its efforts to improve rail safety, addressing issues such as human error, inspections and rail track failure. Again, those are safety questions. Is there a nexus between safety and security concerns? Where do these overlap and where do they diverge?

My concern is that there is rail safety, but there is not rail security. Why? Because again, security should impact the precipitous actions of others, and it combines knowing intelligence and I think very sophisticated security protections. What measures have been or can be implemented that serve both purposes of safety and security?

Mr. Schiliro, the Port Authority of New York and New Jersey released a report recently that the PATH train tunnels that run under the Hudson River are more susceptible to attack than previously thought. What steps are being taken to ensure the security of the tunnels in New York and elsewhere? You might want to add what you think the federal government needs to do, and how much money will it cost to ensure these tunnels are secure, and who should pay for the security upgrades.

Let me yield to Mr. Weiderhold first.

Mr. WEIDERHOLD. Thank you for the question. It is a tough one.

I believe that railroads traditionally, by "traditionally" I mean over decades have found a way to weave safety into most everything they do. I have 30 years with the railroad. I can tell you that in almost every shop on every floor in every station you begin your day with some kind of safety message. My definition of success is to get security on the same level of safety in our culture. It is not there yet. There has been a lot of security training that was started. Ms. Wilson talked about the model that freights use, that Amtrak customized and used, the same NTI product to generate its original training that started in 2005. Additional training for what we call the second phase of all employee training started just last month.

The nexus between safety and security is large. While there are differences, I can tell you an area such as emergency response, whether or not you have an event on the railroad that is precipitated by non-terrorists. You have a train derailment. That same derailment could have been caused by a terrorist activity. The results may very much be the same. So the way that you prepare for

that, the way that you bring first responders on to your property to learn the characteristics of your railroad, those are very similar events, very similar events.

I think the differentiation is what you alluded to with respect to what I would call the "means and methods" of the terrorists. We can look at programs like the British Transport Police HOT Program and other programs where employees need additional training to look for suspicious packages. Trust me, that is a lot easier than looking for suspicious persons, because there are all kinds of pitfalls with respect to how those programs need to be implemented.

Again, my definition of success for security on the railroad is where security takes the same seat, the same front seat as safety.

Ms. JACKSON LEE. Thank you.

Ms. Wilson?

Ms. WILSON. Thank you.

We do not make a differentiation between the safety and security causes of a catastrophic event involving TIH materials. In making this proposal, we looked at a couple of examples that currently exist, one of which is that Amtrak actually has, by congressional statute, a cap on its liability for all claims, including punitive damages. We also looked, as an example, at Price-Anderson solutions, where again, notwithstanding the cause of a release of nuclear material, the liability of nuclear power plant owners would be limited.

The main purpose of our proposal would be to cap the railroad's liability for claims regardless of the cause of the release of the commodity, but we would still ensure compensation for the general public.

Ms. JACKSON LEE. Would you, then, spend more money on security if you had a cap?

Ms. WILSON. Would we spend more money on security if we had a cap? I think the answer to that question, Madam Chairwoman, is that we are spending the amount of money that we can possibly spend at this time, based on our risk assessments and what we have concluded are prudent security investments. Obviously, we are also working now with the Department of Homeland Security, looking at some additional measures to protect TIH shipments in particular, but I don't think that there is a relationship there between our request for a cap on liability and the amount of money that we would or would not spend on security.

What we are looking for is the ability that should a catastrophic event happen, that it would not be a bet-the-company situation, that we would be able to, after paying whatever amount that was determined was appropriate for us to pay, up to the limit, but we would still be in a position to provide the critical services to this country. So it is a matter of survival, really, for our railroads.

Ms. JACKSON LEE. Mr. Schiliro, I am going to ask you to hold your answer, and I will have it at the end of my colleague's.

Let me yield now to the ranking member for his questions.

Mr. LUNGMREN. Thank you very much, Madam Chairman.

Ms. Wilson, everybody here talked about the various things that they thought ought to be done. Many of them had to do with money. It sounds like direct outlays from the federal government. It sounds like your major focus would be on this liability protection.

Ms. WILSON. It is correct that we are not seeking specific funds from the government for additional security measures. We have put a number of measures into effect, and our security plan actually looks at putting additional alert level actions into place, depending on the threat. If legislation were to proceed through the House, we would look favorably upon a provision that would reimburse the freight railroads for the cost of putting these additional counter-measures in place at higher alert levels.

Mr. LUNGRON. I actually have been impressed overall by what the railroads have done on their own volition, beginning with the aftermath of 9/11. However, let me just ask you about one thing that I have some concern about. That is, what is the level of security at rail yards? The reason I ask that is, it just appears to me that in many cases I have gone by rail yards. There appears to be little fencing, if at all, any fencing. And I know there are supposed to be regular observation by security and/or railroad police.

What are you doing in terms of your association and your members at reassessing that? Because it just dawns on me that that is a tremendous vulnerability. If I ever wanted to attack something or plant something on a particular car, it is a lot easier to do that when it is sitting than when it is moving.

Ms. WILSON. Well, I am certainly aware that there has been a lot of press recently about rail yards and the perceived lack of security. I will say that our members are doing a number of things. First of all, as I mentioned, we do instruct our employees to be vigilant and report suspicious activities. We do ramp up our inspections of all cars during routine mechanical inspections, when there is an increased threat level, to make sure that there is nothing foreign tacked onto one of our freight cars.

Our members specifically work very closely with state and local law enforcement to leverage their resources. We simply don't have the security forces to be able to protect everything all the time. Frankly, I don't believe that it is the right thing to do to try to protect everything all the time. If you try to protect everything all the time, you really end up protecting nothing.

So I do believe that we have the right approach to rail security with our yards, our operations, our critical infrastructure, and that is a risk-based approach that ramps up when there is threat information or heightened alert, which is why we spend so much time and effort working with the federal government to make sure that we are linked to real-time security information.

Mr. LUNGRON. I am going to keep looking at that particular issue, not that I have any expertise in the area, but it does appear to me to be a vulnerability. I would like to continue to have conversation with your members and your organization on that.

To the other two members on the panel, I would ask this. Look, we will be talking about grants and funding and all that sort of thing, and believe me, we will get there. But what I would like to know from each of you is what is the single most important thing, other than funding, that you think would enhance security on our rails, the ones for which you are responsible? What is the one single thing the federal government should do that we are not now doing, other than funding?

Mr. WEIDERHOLD. I will take the first shot at that. In my written testimony, sir, I refer to the need. I think part of the committee's agenda has been to make sure that DHS ensures that the carriers, all of the affected carriers and rail, have vulnerability assessments and have security plans. I think you are going to find when you go out there that most of the carriers do have those plans in place.

But what I have found, I am an Inspector General for Amtrak. We share property with more than 20 different transit agencies. In each of those properties, we do not have links to security plans. We have good relationships. We have good local contacts. But what you could do for us is to make sure that when those assessments are made, that they are not just site-specific, or facility-specific, or carrier-specific, but in fact they are linked to the system. They are linked to the node. They are linked to the larger critical asset that is out there. That would be my first response.

Mr. LUNGREN. Thank you.

Mr. SCHILIRO?

Mr. SCHILIRO. Congressman, it is truly my belief that at the MTA, as it is in any agency, people are the most important part of this formula, our ability to attract and keep police officers and first responders that are dedicated to this mission. But it is my belief that in terms of the federal response, as I mentioned in my comments, I do believe that we need to do a better job in taking the lead on research and development—our ability to develop chemical and biological detectors, our ability to deploy explosive detection equipment. It is my belief that someday that will allow us to better secure the infrastructure that we are charged with.

When we talk about hardening assets, these are things that we have to, on our own, take the expense and engineering to develop. It is not something that you can go to Home Depot and buy a kit to harden a bridge or a kit to harden a tunnel. I think that some of those lessons that we are learning, you know, the federal government really should take hold of and assist us in the development engineering of some of these kinds of things.

Mr. LUNGREN. Thank you.

Thank you, Madam Chair.

Ms. JACKSON LEE. Thank you.

I would like at this time to yield to the distinguished chairman of the full committee, Mr. Thompson.

Mr. THOMPSON. Thank you very much, Madam Chairman.

Following from the ranking member's comments, Ms. Wilson, a lot of people on this committee are very concerned that most of the rail yards in this country are not protected. You are aware of stories where reporters have walked into a rail yard, left their business card on a hazardous tank car, and left.

In light of situations like that, public is demanding that we do something. If we, as members of Congress, don't get involved in a real way on rail security, how can the industry assure us that it will do something about situations like this?

Ms. WILSON. Chairman Thompson, I cannot sit here and guarantee you that the freight railroad industry will ever be in a position to achieve full protection of every rail yard in the country. There are thousands of rail yards in this country. Many, as you know, are in highly populated areas which is a concern to the in-

dustry, as well as to the federal government. We are working with TSA at this time on two levels—one, some voluntary recommended security action items that address TIH cars in high-threat urban areas. And another area where we are working with TSA is on proposed rules that they have issued, which would provide for the attendance of TIH cars in rail yards in high-threat urban areas.

That rule would require the railroads and their customers, the containees as well as the suppliers, to make sure that every TIH card in a high-threat urban area is not left unattended. That proposed rule is out for comment right now. The industry is not opposed to the regulation. We are proposing a way in which we think we would be able to comply with the regulation. Our comments will be filed with the agency next week, I believe the 20th is the due date.

Having said that, still we are not talking about full gates and guards with guns. We are talking about a presence around TIH cars in these high-threat urban areas.

Mr. THOMPSON. Not to cut you off, but I want you to understand that it is very difficult for this committee, to accept, having full knowledge that people have open access to those yards, that the federal government does not have a policy in this issue. Now, either we work with the industry or we are going to be forced to do it without the industry. I am saying to you that it is a real problem.

My friend from the District of Columbia talks all the time about hazardous cargo coming through areas. I am sure she will raise it when her time comes. I am told that in most communities, when HAZMAT comeS through, they don't have any idea of what is on the cargo. They are not notified. If something happens, they can't communicate with them from an interoperability standpoint.

These are other issues that this committee will be tasked with over the next few weeks in coming up with some realistic plans. Otherwise, local government will get involved in the issue, which will then create a different dynamic. So I want to impress upon you. I am not leaving the passenger folks out. You know there are some issues associated on the passenger side that we have to address. This notion that we have to leave it to either freight or passenger fail, and they will do it right, is probably not left up to this committee. But the public is saying to us, there are vulnerabilities. We know they are there. Members of Congress, what are you going to do about it?

That is why we are holding the hearing, to hear from the industry and other people to get input. So I would implore you to try not to defend what you are doing without offering some going forward lessons for us to look at. Otherwise, you miss a golden opportunity.

I yield back, Madam Chairman.

Ms. JACKSON LEE. I thank the chairman very much.

The gentlelady from the District of Columbia? We thank her for her service. Congresswoman Norton, 5 minutes.

Ms. NORTON. Thank you very much, Madam Chair. I thank the chairman for opening up this hazardous substance matter with me.

I think you may be surprised, Ms. Wilson, to see how I approach it. I want to thank the chairman for working with me on the major bill on passenger security, and the chair of our new committee for

making this the first order of priority. This is a big fat hole in homeland security, and it is called all of ground transportation, frankly—rail, metro, buses, you name it. And yet, that is what Americans travel on every day.

We can't wait any longer, and yet your industry was the great American industry, that was responsible. We didn't even have roads until the Eisenhower highway traffic bill to get things anywhere except for your great industry. You are now in a position where you have to rebuild the railroads, because they are so old, and the tracks are so old.

Let me just go quickly to this notion of hazardous substances. I want to use the District of Columbia and what happened there, because it is a case study. It makes me almost feel sorry for the industry. Because there was no action, no matter what we could do in committee, about the fact that hazardous substances went within four blocks of the Capitol. Without any prompting from me, I didn't have a thing to do with it, the D.C. City Council then passed essentially a ban, a re-routing ban. I do not believe that re-routing is the answer in most jurisdictions. There didn't know what else to do, no leadership from the federal government.

Now, look what you have. In your own testimony, Ms. Wilson points to more than a half-dozen cities that are trying to do the same thing. And guess what? Even though this is a matter of interstate commerce, our courts have not yet said that the District cannot do that because of a provision that says if the federal government doesn't act, then you can protect your own local jurisdiction. This is still going on 3 years later.

I don't blame you, Ms. Wilson, for saying, well, you can't re-route. These tracks run a certain place. I disagree with you that we would increase exposure, because of course we were talking about re-routing in places like New York, where there are huge population centers, or close to the Capitol of the United States, for God's sake, and you have even been doing some of that close to the Capitol of the United States.

So you know that there are some places not that are more important than others, but that you would be particularly vulnerable if in fact something occurred. If not re-routing, let me ask you, don't you believe it is time for the industry to sit down with the only power that can be a force here, the government of the United States, to in fact figure a system of either re-routing or alternatives that would uniformly be used when hazardous substances went through high-population centers?

I am thinking of South Carolina. It doesn't have to a terrorist. Would you be willing, if everybody was sitting at the table, everybody under the same regime, so that nobody is at a competitive disadvantage, to in fact see as the answer a government-wide system that would apply to all, done in collaboration with the industry so we take into account its practices. So you don't end up banning something that there is no other real way to get there.

But you would have uniformity. Would the industry be willing to submit itself to those, not that we need your permission, by the way, to that kind of regime in order to straighten out this hazardous substances re-routing matter, where we can't ask CSX, "Hey, you do it," but the other company within whom you are com-

petition, they don't have to do it. You have to do it because you happen to be in this set of tracks, and make yourself uncompetitive with them, but they don't have to do it.

I would like to know whether you think that is a plausible answer to this problem of hazardous substance going through large population centers.

Ms. WILSON. Thank you for that question, Congresswoman Norton. I can tell you, first of all, that we are always willing to sit down with government officials.

Ms. NORTON. You bet you are.

Ms. WILSON. To try to resolve some of these very difficult issues, because one of the things that we learned very early on after 9/11, as we were trying to protect these shipments of TIH materials, is that if you are not very careful, you can, through your actions, produce some unintended consequences that can have a worse effect perhaps than the effect that you are trying to prevent.

Ms. NORTON. Well, you named insurance or liability, and yet you say that your hazard would be increased if it took more time. Well, nothing could increase your hazard more than somehow having some terrible accident in New York, Chicago or the District of Columbia. You don't know what your liability would be. Putting caps on your liability, you are a common carrier. It is pretty hard for you not to be subject to punitive damages no matter what you do.

So is there any way to do it except making sure that everybody is under the same regime? That is my question.

Ms. WILSON. What we have been doing recently is working with the Department of Homeland Security and the Department of Transportation to look at possible ways to streamline this transportation, with a goal of reducing the number of miles that these products need to be transported, with the goal also of evaluating the routes that we currently use to determine whether or not we are transporting these commodities over the safest, most secure routes. And we are working, actually the Railroad Research Foundation is working under a grant from the Department of Homeland Security to develop a tool that will help railroads evaluate both the safety and security risks of their hazardous materials routes, and alternate routes, to help?

Ms. NORTON. Ms. Wilson, I think you have answered my question. Your sitting with them at this late date, trying to in fact get some agreement. Frankly, I compliment the industry because I think the initiative has come from passenger and rail. And yet we heard testimony from the Inspector General. We can't ignore what the Amtrak testimony said. Essentially, it is that, and I am quoting you, sir, we suspect that many of these very good assessments that some may have done, others may not be as good, are carrier-specific, and not necessarily linked to larger system and modal vulnerabilities—in other words, no nationwide rail transportation system, the way we now have developed in plans.

This is very, very bothersome to this committee, which is why you see the priority we are giving to it. I didn't mean to put you on the spot, Ms. Wilson, because I think unless the Department of Homeland Security says all of you all are under some regime, I don't expect CSX to say, "Okay, we will re-route," even around the nation's capitol, even though I know you have been doing it be-

cause you know what would happen if you blew up four blocks from the Capitol.

Just let me ask one more question of Amtrak. Just let me get it on the record. We had to fight on the floor—was it last session or 2 years ago?—to get Amtrak enough money to stay up and running. Is Amtrak in any financial condition to provide the security of the kind we have been talking about here, in addition to keeping themselves up and running? Mr. Weiderhold?

Mr. WEIDERHOLD. I have been with Amtrak 30 years. I have been up and down that roller-coaster of teetering on bankruptcy, and then having a little bit of cash left at the end of the year. In a grant and legislative request that the company is submitting, as a matter of fact this week, as part of its annual package, it is making security its number one investment priority, which I think is a good thing.

But it is doing it with its internal finances. It is redirecting money from other company activities, probably appropriately, I think, mostly appropriately. Is it enough? Not yet. More needs to be done. In 3 years, Amtrak has received about \$21 million or \$22 million from DHS for all things rail security. So most of what Amtrak does has to come out of its own hide.

It is making progress. I am the IG. I am responsible for oversight. I can tell you it is not enough, and it is not fast enough. So more needs to be done.

Ms. NORTON. Madam Chairman, I thank you for your graciousness, but I take that as a “no.” If he is saying just to keep the railroad running, they are having to borrow money from keeping the railroad running for security because they recognize their vulnerability. We can see that we have a railroad on its last legs, which cannot provide the security that you and the chairman are expecting.

Thank you very much.

Ms. JACKSON LEE. I think your probing has highlighted the purpose of this hearing, which is the distinction between safety and security.

As the young people leave this room, I will take the personal privilege of letting them know how much we appreciate them going in and out of our hearings, and hopefully they are getting a sense of the importance of the work. Thank you for being here.

I am just about to yield to the distinguished gentlelady from New York. I do want to emphasize the heart of this hearing. The testimony suggests that we do have to do a regulatory scheme, if you will. I think you captured it, Mr. Weiderhold, and that is to make security number one. I don’t sense it, even though there is a great interest.

I believe that through the period of time of legislation and mark-up, we need to hear from more of the railroads collectively to be able to frame what is going to be a regulatory process for making security number one.

I yield 5 minutes to the distinguished gentlelady from New York, Congresswoman Clarke.

Ms. CLARKE. Thank you very much, Madam Chair.

And to the three of you, thank you so much for your testimony here today. It sort of puts everything in context and real-time as we look at how we secure our nation's transportation systems.

What I found really just sort of alarming is the fact that the Department of Homeland Security has spent approximately \$24 billion on aviation security, compared to \$549 million in transit security since 9/11. It begs the question, how are we going to really tame this tiger?

I think "tame this tiger" because all of you are operating each and every day with the specter of, my goodness, this should not be the day that something goes wrong. I can understand what that pressure must be like.

I would like to just sort of ask Mr. Schirilo, I have a little bias here, but I would like to get a sense from you. You talked about rail transit security needing to be at a minimum of \$500 million to \$600 million per year. Has your estimate for the required minimum annual funding for transit security been endorsed by any other transit agencies or professional agencies in the country?

Mr. SCHIRILO. Congresswoman Clarke, just to put that into a little bit of perspective, this year's transit security grant for the New York metropolitan region was approximately \$61 million. That money will be divided among the MTA, New Jersey Transit, I think Amtrak shares in that among Grand Central and Penn Station. So I think in terms of trying to balance how we arrive at it, we do take into account the needs of our sister agencies in coming up with that figure.

As far as what it would take to go back to the original assessments that were done after 9/11, now obviously those things change. I think that we would need to reevaluate it in terms of an annual assessment. But the \$61 million that we are going to share this year, I can assure you will not cover anywhere near what we would need in order to keep pace with the kinds of projects that are still pending. The problem is that the assessments that were done in 2002 and 2003 identified vulnerabilities that we cannot get to. That is an issue.

Ms. CLARKE. Let me also just take a moment to commend each of you for doing what you could with what you have, just to secure us in the best way that we can. We all accept the fact that that is not where we need to be right now, but I want to thank you for the efforts that you have put in place.

You provided some very useful figures, Mr. Schirilo, on how much money the MTA has spent from its own resources to strengthen security since 9/11. How much money would you estimate the MTA has spent on security training and exercises since 9/11?

Mr. SCHIRILO. Congresswoman, I would have to get back to you with a precise figure, but I would say in the neighborhood, since 9/11, between the transit security grants and our own money, probably just for exercises and training, in the neighborhood of \$20 million to \$30 million, but I could provide some precise numbers on that for you.

Ms. CLARKE. We would appreciate that. Does the MTA fully participate in the New York Intelligence Fusion Center and the New York City JTTF? And do you feel that the MTA has been suffi-

ciently briefed on the more exotic terrorist threats from radiological, biological and chemical terrorist threats?

Mr. SCHILIRO. Congresswoman, we do have two detectives assigned to the New York Fusion Center, and also two detectives assigned to the FBI's Joint Terrorist Task Force. That is a great benefit to us in terms of the kind of tactical information that we need every day to protect the system.

I think if there is a weakness in the process, it is probably doing a better job in terms of the development of strategic information as it pertains to transit safety and transit security. That is something we are working on improving now. But as far as the day-to-day dissemination of tactical information, I left the FBI in 2000 and I can assure it is a lot better today than it was when I left. I think everybody does a very honest job of it.

Ms. CLARKE. To Ms. Wilson and Mr. Weiderhold, do you participate in briefings around the threats that are occurring on a regular basis with DHS or any other regulatory bodies?

Ms. WILSON. We do to a limited extent. We ask the intelligence analysts at DHS and others in the intelligence community to meet with us and our own analysts on a quarterly basis to review the intelligence and to determine what more we need to know. We also, as I mentioned in my testimony, have a railroad police officer who sits at the NJTTF. Railroad police work very closely at the local JTTF levels so that they are plugged-in there.

We also have our 24/7 Operations Center at AAR that is a DOD-cleared facility and operates at secret. So we do have the capability to receive and store threat information if it becomes available. We have been working more recently with a relatively new group at DHS called HITRAC. We are in contact with them on a regular basis. They do provide regular threat assessments for the rail industry.

Mr. WEIDERHOLD. Likewise, Amtrak has staff assigned to both the Washington field office of JTTF, as well as the New York JTTF. My office has staff also assigned to the JTTF here at the Washington field office. We have ongoing contact with HITRAC and with AAR through their centers.

As an IG, I like to test those things from time to time, so we will be coming back to the committee about what the results of those tests are, to make sure that we are getting intelligence information, the right kind of information, getting it quickly and on time. I am looking forward to those tests.

Ms. CLARKE. Thank you very much, Madam Chair. I look forward to working with you and our colleagues to really deal with this issue.

I think the key in a lot of this is the funding. Certainly, we have heard that there seems to be some level of communication about the security issues, but it is kind of out of balance if you are not in a position to do the type of infrastructure-building and supports that are required.

I want to thank you, Madam Chair, for the opportunity.

Ms. JACKSON LEE. I thank the gentlelady. We know that her city in particular has enormous needs, along with our other large systems, and certainly we are going to welcome her insight.

Mr. Schiliro, you were trying to answer the last question. I would appreciate it if you would.

Mr. SCHILIRO. Yes, Congresswoman. The MTA does share a very serious concern on under-river tunnels. We operate 14 transit under-river tunnels in the City of New York. Without getting into the details, our tunnels are constructed differently than the PATH tunnel, so that does represent a different vulnerability.

We undertook in the middle of 2003 a program to harden where necessary those tunnels. We anticipate another year or two before that tunnel is completed as far as structural hardening. The second part of the three-part equation is the application of fire and life safety techniques to those tunnels. That is the ability to provide redundant lighting and signage in the event that an evacuation of a tunnel is needed.

Also, we deploy electronic security devices in terms of intrusion detection and cameras at each of those tunnels. That was part of the integrated electronic system that we talked a little bit about before. But tunnels do represent a vulnerability, there is no doubt about it.

I think the program that we currently have in place, considering the age of those tunnels, is appropriate and reasonable under the circumstances. In a private session, we can certainly discuss the vulnerabilities and the tests that were done in order to arrive at that. But I think we generally do share the port's concern with tunnels, but I think we have a fairly good program.

Ms. JACKSON LEE. Do you self-fund?

Mr. SCHILIRO. For the most part. This last year, in 2006, part of our transit security grant was for under-river tunnels. We have not received it yet, but we feel confident that we are going to get some money to do that.

Ms. JACKSON LEE. Thank you very much for answering the question.

Let me thank the witnesses for their testimony, and let me thank them, for their insight. I hope that we will continue this dialogue as we proceed in the legislative process. I thank the first witnesses, and I know that we will now listen to witnesses who are addressing the concerns of employees.

Let me simply conclude on the first panel by saying it is certainly well known that railroads, rail systems are vast. Rail yards are vast. But pre-9/11, airplanes were vast. There were many airplanes. In fact, there might have been thousands. And you recognized that on 9/11 we grounded those airplanes. My message is that we do what we have to do.

I would like to be able to do what we have to do before the possibility of a horrific and tragic act that is plaguing our railroads. So I think there is no doubt that we must act and we will look forward to working with you. My concluding point is, let me associate myself with the words of Mr. King, that I do believe that the funding source should be vested in the agency that deals with security, and hopefully that will be a process that we will have captured in our legislation.

With that, I thank the witnesses for their testimony.

I am prepared now to move forward to the second panel.

Allow me to welcome the second panel of witnesses, and to thank you for participating in this hearing.

I think, as you have noted, we are awaiting your testimony because we believe rail security is a combination of not only industry and the federal government and local authorities, but it keenly falls on the shoulders of employees who are there every single day with the traveling public, or either helping to transport hazardous materials or otherwise going back and forth across America or up and down the East Coast.

So I welcome the second panel of witnesses.

I note our first witness will be Mr. Gary Maslanka, international vice president and director for the Railroad Division of the Transport Workers Union, who has 33 years of railroad experience that began with the Penn Central Railroad in 1974.

Our second witness is Mr. John Murphy, who is the director of the Teamster Rail Conference of the International Brotherhood of Teamsters. We thank you also for your knowledge and service in this industry.

Without objection, the witnesses' full statements will be inserted in the record. I now ask each witness to summarize his statement for 5 minutes, beginning with Mr. Maslanka from the Transit Workers Union.

**STATEMENT OF GARY MASLANKA, INTERNATIONAL VICE PRESIDENT, DIRECTOR OF RAILROAD DIVISION, TRANSPORT WORKERS UNION**

Mr. MASLANKA. Good afternoon, Madam Chairman Jackson Lee, Ranking Member Lungren, Chairman Thompson and members of the committee.

My name is Gary Maslanka. I am director of the Transport Workers Union of America, Railroad Division. I would like to thank you for the invitation to appear before the committee to provide testimony on railroad security issues. On behalf of the over 120,000 members of the Transport Workers Union, I would also like to thank you very much for conducting this very critical hearing.

The Transport Workers Union is comprised of, among other sectors, members who work on mass transit systems, including the MTA in New York, rail and airlines. Inasmuch, as hear a lot of feedback on security issues. So I would point out that TW members were some of the first to respond to the horrific attacks in 2001.

We certainly understand the need to provide safe and secure transportation systems, and we recognize the vulnerabilities of the nation's transportation systems, as numerous reports over the past several years have highlighted, and as the discussions have highlighted again today.

I would just like to point out one of those reports, which I believe is an excellent report, "Detour Ahead." I think that encapsulates the entire problem and refers to many other reports. It is an excellent piece of work and we thank the committee for that.

One of our most important issues here is obviously employee training. All frontline workers require training preparation and response, and as has been said by labor for quite some time now, employee security training to this point has been woefully inadequate. I know we hear and we see different pieces of testimony through

the hearings that take place about all the wonderful plans and all the wonderful training that is going on, but frankly we don't see it.

It has got to be more than just a handout saying to employees that you are the eyes and the ears of the railroad. Along those lines, I just want to point to some testimony from last week from Michael Haley, Deputy Chief Counsel for the FRA. He referenced in his testimony leveraging some training that could be partnered, or in a cooperative effort with the National Labor College. I believe that training issue was also discussed a bit in the "Detour Ahead" report. I want to say that is encouraging. I mean, if that could happen, as has happened in the past with the hazmat training and other initiatives through the Center, that is what we view as real training.

I am not going to elaborate on the proper funding needs. That has been discussed here a little bit earlier today. I would just point out that it is really unrealistic to expect, for example, Amtrak, which is fighting to survive with the under-funding it receives on a regular basis. It is unrealistic to believe that they have the appropriate money, and they require funding to get the training done.

Quickly, I want to turn to something that was mentioned in our written testimony—that is, on-board service workers on Amtrak in comparison to airline flight attendants, with respect to safety and security. It is our view, much like flight attendants, on-board service workers on Amtrak are there, yes, for the comfort of the passenger, but that can never or should never overshadow their first and foremost priority, and that is the safety and security of the passengers.

Again, I refer to Michael Haley's testimony from last week, wherein he references emergency preparedness regulations under the FRA, Federal Railroad Administration. I would just point out a few things there, quickly. One is that regulation does not provide for appropriate security training. And moreover, by the limitation of the definition of a "crewmember," it doesn't even provide for the appropriate training of all the crewmembers on board a train. It is a missed opportunity and a step backwards. FRA recognizes the safety benefit of providing every on-board employee training, including contractors, but indeed, it concludes that safety would be enhanced by limiting the definition of "crewmember."

I am watching the clock here, so I am going to make it quick. I would just point out that while we are talking about the woeful needs for training of employees, it is not just here. It is in the federal regulations. It has got to be addressed there. As we speak today, I think it was mentioned earlier, the current rulemaking going on with the Department of Homeland Security, there again there is a rulemaking to address security plans on railroads, both passenger and freight, but there is no mention and no requirements for security training.

Thank you again. I will do my best to answer any questions you may have.

[The statement of Mr. Maslanka follows:]

SUBMITTED PREPARED STATEMENT OF GARY MASLANKA SUBMITTED BY JAMES C.  
LITTLE

Chairwoman Jackson Lee, Ranking Member Lungren, and other members of the Subcommittee, on behalf of the more than 120,000 members of the Transport Workers Union of America (TWU), we thank you for this opportunity to testify today at this very important hearing and give TWU's perspective on rail and mass transit security.

TWU's transportation Members are bus, subway, light and heavy rail operators, clerks and maintenance employees at transit, commuter and freight rail systems, school bus operators, rail onboard service workers, rail mechanics, and rail cleaners. Our Members are also employed in various capacities in the airline industry—including but not limited to flight attendants, aircraft maintenance technicians, and ramp service personnel. We understand the need to provide safe and secure transportation systems, because our Members were some of the first responders in New York after the dreadful attacks of September 11, 2001.

Other deadly terrorist attacks on major rail and transit systems around the globe, in places like Mumbai, India, the London Underground, Moscow and Madrid should have prompted our government to provide the necessary comprehensive strategy, oversight, guidance and funding to ensure protection of the nations railroads and transit systems. Even before these more recent threats, the bombings at the Paris Metro and the release of sarin gas in the Tokyo subway system pointed out vulnerabilities in public transportation. It is obvious that mass transportation systems are attractive targets for terrorists. Therefore, we applaud the efforts of Chairman Thompson, Chairwoman Jackson Lee and the members of this committee in moving forward legislative initiatives in a bipartisan manner to protect our nation's transportation system.

The safety and security of our mass transit and rail system is of paramount importance to the leaders and members of TWU. In particular, we strongly believe that all frontline rail and transit employees should receive training to prepare them to prevent and respond to acts of terrorism. A comprehensive security training program for workers on the scene of a security threat is vital to securing and safeguarding our transit and rail networks. As with flight attendants and pilots in the airline industry, onboard service workers and conductors in rail as well as bus drivers, subway operators, conductors and toll booth personnel in transit are obviously the group of frontline workers that are best positioned to spot potential security breaches or other potential problems. Reports of threats, suspicious activities and potential problems are usually communicated to frontline workers by passengers. And, oftentimes frontline workers themselves discover the suspicious activity or threat. Thus, it is essential that these "eyes on the scene" receive full and proper training in how to handle these threats and activities with a specific protocol of action to follow.

Rail and transit first responders deserve proper training because 1) they are the first on the scene—arriving even before police, fire fighter, and emergency medical responders and what is done in the first few minutes is crucial to minimize the destruction and loss of life; 2) investing in worker security training is a sound investment; 3) a mandatory worker security training program enhances the layered approach in protecting the public from destructive terrorist acts by giving frontline employees adequate tools to protect themselves and passengers from harm and 4) it is the right thing to do.

Funding for initiatives that strategically enable us to protect our nation and its workers is vital. We admire the committee's commitment to use meaningful technology to help in the course of planning, preparing and protecting our homeland. However, we were disappointed that the Administration failed to include in last year's FY 2007 DHS budget proposal a specific line item funding amount for transit security.

In the aviation industry, \$9 is spent on security for every passenger who flies. It is frightening to realize that we currently invest just one penny per rail and transit passenger on security.

But airline security measures are not without their flaws and we hopefully can learn from them as we implement security programs in transit and rail. The security training for our nation's flight attendants has never been properly funded nor has the piecemeal solution been an adequate strategy for flight attendant frontline workers. Instead, the crew member self defense training (CMSDT) program was doomed from the beginning without mandatory participation coupled with problematic training locations and dates.

Hopefully, we have learned from the poorly managed flight attendant program so that rail and transit frontline workers will be given the proper, structured, con-

sistent, adequate and well distributed security training program that is needed to meet their needs. The comparison of the work groups of flight attendants and on-board service workers is instructive. While flight attendants see to the comfort of passengers this is never allowed to interfere with or supplant their responsibilities for safety and now security.

Likewise, the passenger serving responsibilities of on-board rail workers can never be allowed to overshadow their responsibility for dealing with safety and security—tasks like communicating with passengers, train evacuation, etc. Both flight attendants and on-board rail workers undergo extensive first aid training. Both groups have as a priority the safety and security of passengers as both groups have rules, and federal regulations that govern both sets of workers receiving initial and recurrent emergency preparedness training (121.401 FAR and 49 CFR 239). Both groups work in an environment that is unique and involves numerous challenges that are either passenger or equipment related.

Numerous gaps and inconsistencies exist in our transportation security system. Though the “layered” approach to protecting passengers is a good one it cannot work effectively without properly training workers how to respond to suspicious activities. It is not enough to ask workers, the eyes and ears of their workplace to be vigilant and alert of potential security threats. They must be taught how to recognize potential problems, what protocols to follow in reporting and responding to potential threats and how best to protect themselves and their passengers from harm. Freight railroad workers also need training to properly and efficiently handle the security threats that they confront on their job as well.

Rafi Ron, former Director of Security at Tel-Aviv Ben-Gurion International Airport has testified before Congress that “training provides the skills and confidence. . .to employees who are present at every point in the system. No one is in a better position to recognize irregularities on the ground than the people who regularly work there.” We strongly echo these sentiments. Workers are the eyes and ears of potential breaches to security in their workplace. It is imperative that we arm them with the proper tool of security training to protect their passengers and themselves. As a result of attacks on public transportation systems in other parts of the world, the American Public Transportation Association (APTA) testified recently before the Senate Committee on Banking, Housing and Urban Affairs that these attacks “highlight the need to strengthen security on public transit systems in the US and to do so without delay.”

Officials from both FTA and TSA have publicly recognized the need for training. In fact, a list of 17 “action Items for Transit Agencies,” jointly-developed by TSA and FTA includes establishing and maintaining a security and emergency training program for all employees. Yet, little, if anything is being done to ensure that this training is provided. There is no “real” training being done on a comprehensive basis. Watching a short 10 or 15 min video does not prepare a worker for a real security incident. This method did not work in the airlines prior to 9/11 with the flight attendants and this method does not adequately prepare our frontline transit and rail workers.

From information sharing of intelligence to developing safety guidelines and standards to sharing best practices and expertise in development of programs that will enhance transit and rail security, it is essential that the federal government ensure and use every means available to enhance and increase security. It is time for the federal government to step in and not only provide funding for the operating costs associated with training, but also to require all transit and rail systems to train each and every frontline employee. It is the role of the federal government to ensure that this happens. Leaving it exclusively to the will of the industry is not just insufficient but could lead to disastrous consequences.

The security of our rail and transit systems is the joint responsibility of all stakeholders. It is critical that the rail and transit employees who are on the scene where these threats strike be fully included in the implementation of any rail and transit security program. It is equally critical that they, through their representatives in labor, be fully included in all phases of planning and developing such a program. On behalf of the Transport Workers Union of America I look forward to working with this Committee to achieve these ends.

**Ms. JACKSON LEE.** Thank you for your testimony.

I now recognize Mr. Murphy with the Teamsters Rail Conference to summarize his statement for 5 minutes. Mr. Murphy?

**STATEMENT OF JOHN MURPHY, DIRECTOR, TEAMSTER RAIL CONFERENCE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

Mr. MURPHY. Good afternoon, Madam Chairman Jackson Lee, Ranking Member Lungren, Congressman Thompson, and members of the subcommittee. I am John Murphy, director of the Teamsters Rail Conference. Thank you for inviting me to testify on railroad security.

The Teamsters Rail Conference represents more than 70,000 frontline rail workers. As the eyes and ears of the nation's rail transportation system, our rail members are dedicated to improving rail security and safety in America. Unfortunately, I must report that the state of security on our rail system today is dangerously inadequate. It is tragic because we have seen firsthand the damage rail accidents can cause, and are aware of the catastrophic destruction that can be wrought by terrorism or sabotage.

I can summarize my testimony in the simplest and starest terms possible. Railroad employees are highly skilled professionals whose safety and security concerns are largely ignored by the rail corporations. The rail carrier security systems are woefully inadequate. Employee security training is virtually nonexistent. In the hands of the wrong people, trains are potential weapons of mass destruction.

Since 9/11, the federal government has spent billions on aviation security, while spending a pittance on the nation's rail systems, even though railroads run freight trains laden with hazardous chemical tank cars through densely populated areas every single day. A chlorine tank car, if targeted by an explosive device, could create a toxic cloud 40 miles long and 10 miles wide. Such a toxic plume could kill or injure as many as 100,000 people in less than 1 hour. The FBI considers them potential weapons of mass destruction. Such an event on the railroad tracks just four blocks from this building would endanger everyone in Congress and the Supreme Court. We sitting here today would be among the dead.

In 2005, an individual hijacked a locomotive with a bow and arrow. In 2007, two young boys took a locomotive on a 12-mile joyride. If teenagers and a man with a bow and arrow can do this, just think of what a terrorist can do with such a potential weapon of mass destruction.

The federal government has left the awesome responsibility for rail security in the hands of the rail carriers. We feel the federal government's faith in the rail carriers to self-regulate the security measures is misplaced. The rail carriers claim to have instituted a rail safety plan. However, our members have not been trained in the plan's specifics. As the true first responders to rail emergencies, if there is such a plan, shouldn't the rail carriers share it with their employees? According to our members, they have not.

The only security training is usually nothing more than a printed brochure or a 10-minute videotape. About 80 percent of our members said that they have not received any additional security-related training since 9/11. Therefore, we welcome and strongly support legislation that would mandate quality, comprehensive security training for rail employees.

This woeful state of rail security is documented in our report called "High Alert," some of which you may have seen. This report reveals a shocking inattention to security by the nation's largest rail corporations. The report's conclusions are that the nation's rail system is vulnerable to terrorist attack and the rail corporations have not taken seriously the safety of their employees and the general public.

We are not alone in these concerns. News organizations across the United States have produced investigative news stories on the shocking lack of security, some of which we have supplied to you in the form of this DVD. Please look at it. Those who say that rail security has improved should read last month's investigative news article in the Pittsburgh Tribune.<sup>1</sup> The reporter on that story penetrated 48 plants and freight lines to reach catastrophic chemicals. The reporter asked, what if he was a terrorist and not a reporter? This is the same question the Teamsters have raised in our report. Even where the FRA has already noticed security defects at rail facilities years ago, the reporter found access was still easily obtained today.

We respectfully request the new Congress to mandate a comprehensive vulnerability assessment of the rail carriers, and to pass legislation that will compel rail corporations to train their employees on proper safety and evacuation procedures, on the use of appropriate emergency escape apparatus, on the special handling of hazardous materials, and to clarify the responsibility of rail employees within the railroad security plans. Most importantly for our members, we strongly support the inclusion of whistleblower protection. Railroad workers should not and cannot be subjected to dismissal when they provide security threat information to the federal government.

The Teamster Rail Conference looks forward to working with this committee and the Congress to address the issues of rail security nationwide. I thank you for this opportunity to be here today, and I will try to answer any questions that you may have.

[The statement of Mr. Murphy follows:]

#### PREPARED STATEMENT OF JOHN MURPHY

Good Afternoon. Madame Chairwoman Jackson-Lee, Ranking Member Lungren and Members of the Subcommittee, my name is John Murphy, Director of the Teamster's Rail Conference. I would like to thank you for inviting me here today to testify on the issue of railroad security. On the behalf of the more than 70,000 Teamsters Rail Conference members, I thank you for holding this hearing on this important subject.

The issue of railroad security is of vital concern to all railroad workers, including Teamster Rail Conference members represented by the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the Brotherhood of Maintenance of Way Employees Division (BMWED). The Teamsters Rail Conference is dedicated to improving rail security and safety in America to adequately protect rail workers and the communities they serve. Each and every day, we are on the front lines of the nation's transportation system and see the woeful lack of security on our railroads. This lack of security is more than just troubling; it is tragic because we have seen the damage that can be done by accidents on the railroads and shudder to think of the damage that could be wrought by terrorism or sabotage.

It is frightening to think that there were more than 250 terror attacks on railroads world wide from 1995 until June of 2005. Since June 2005, we have seen attacks perpetrated in London and Mumbai, India. In the past 11 years, there has

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<sup>1</sup>See article Pittsburgh Tribune, *Terror on Tracks*, January 14, 2007, Sunday.

been one successful attempt to attack a railroad in the U.S. and several more attempted attacks. The attack in Hyder, Arizona, on October 9, 1995, killed an Amtrak employee and injured 78 other people.

The case was never solved. More recently, plans were uncovered to attack the New York subway system on three different occasions.

The frequency and severity of the attacks on railroads worldwide and here at home demonstrate the urgency for change in the way our rail security system works. However, our current regulations are severely inadequate.

As you know, the Department of Homeland Security and the Transportation Security Administration spends nine dollars per airline passenger on security, but only spends one penny per rail/mass transit passenger. This is a pittance when compared to the number of riders each day on our nation's rail and mass transit systems. Each weekday, 11.3 million passengers in 35 metropolitan areas and 22 states use some form of rail or mass transit.

These passengers ride on trains that cover over 10,000 miles of commuter and urban rail lines. The very nature of the rail system makes it vulnerable to attack. In addition to the more than 10,000 miles of commuter and urban rail lines, there are 300,000 miles of freight rail lines. These lines are open and easily accessible to the general public.

In response to these concerns, the Teamsters Rail Conference has taken a number of concrete steps. For example, the BLET and BMWED have drafted model security legislation that has been introduced at the state level in every section of the country. This legislation would accomplish the following:

- Require rail operators to conduct a risk assessment of their facilities, cargo, and hazardous material storage procedures, paying special attention to storage within a fifteen mile radius of a school, hospital, nursing home, public utility, or public safety facility;
- Develop a comprehensive security plan, to be filed with the state's Transportation Department;
- Implement a Community Protection Plan covering security, training, and emergency response; and
- Provide for whistle-blower protection for all rail workers and rail contractor employees.

Also, at a May 2006 meeting of the Federal Railroad Administration's Railroad Safety Advisory Committee, two locomotive engineers from the Rail Conference made a presentation on currently available locking devices for a locomotive's automatic brake valve. These locks—which would prevent an unauthorized person from moving a locomotive—are already in use in some European countries and in other parts of the world. As recently as January 16, 2007 two boys escaped from a juvenile detention home in Nelsonville, Ohio, broke into a building that housed a locomotive, and took the locomotive on a 12-mile joy ride before being apprehended by police. If two juveniles can do this for fun, just think of what a terrorist could do with such a potential weapon of mass destruction. In October 2005, in Southern California, an individual hijacked a locomotive with a bow and arrow. In that case, the locomotive was stopped at a signal; the hijacker boarded the locomotive and forced the engineer and conductor to flee. Fortunately, the engineer disabled the locomotive by activating a remote fuel shut off switch. But what if the hijacker had killed or incapacitated the crewmembers? While stories of hijacking with a bow and arrow and joyriding juveniles may sound amusing, those stories starkly portray the continuing lack of safety and security on locomotives today that put their crew members and public at large in serious danger. We strongly urge the committee to mandate the use of such locking devices to prevent unauthorized movement of locomotives, and we advocate the "hardening" of locomotive cabs to prevent unauthorized intrusion into locomotives.

Ultimately, the strongest response to potential security threats faced by the railroad and transit industries begins here in Washington. We believe that the disproportionate concentration of federal resources in the aviation industry has left rail and transit systems vulnerable. While we applaud ongoing efforts to focus on the vulnerabilities of freight and passenger rail systems, we are concerned that we are not doing enough, fast enough.

One area of grave concern is that safety and security training for rail employees, and rail security measures in general, have been not been given the attention they deserve. We believe that the Transportation Security Administration's (TSA) recent proposals for rail transport of hazardous materials still falls short when it comes to the safety of rail employees and the public. Although the proposed rules bring some of the dangers of hazardous materials storage to light, they do not adequately address quality safety, security, and emergency response training for rail employees. We respectfully request the new Congress to pass legislation that will compel rail

corporations to train their employees on proper safety and evacuation procedures; the use of appropriate emergency escape apparatus; the special handling of hazardous materials; and the roles and responsibilities of rail employees within the railroad's security plans, including an understanding of the plan's threat level index and notification to employees each time the threat level is changed.

Locomotive engineers, trainmen and track maintenance workers are the true first responders to rail emergencies—the eyes and ears of the industry. They are the first on the scene, and often the last to leave. Yet, the rail corporations do not have quality safety and security training for employees in place. That failure places these first responders in harm's way, and by implication puts the communities served by the railroads in harm's way as well. A good example is the recent CSX derailment in Kentucky near the Cincinnati airport. In that case, none of the rail employees knew what was in the train or how to contain the hazard and the local first responders began by dousing the flames with water which did not extinguish the fire and permitted the hazardous materials to spread by putting them in solution with the water.

Even since 9/11 and the attacks on rail and transit systems overseas, the security training given to rail employees has been minimal, usually comprised of nothing more than a printed brochure or 10-minute videotape. Moreover, 80 percent of our members who participated in a rail security and safety survey said that they had not received any additional security related training since 9/11. Therefore, we would welcome and support legislation that would mandate quality comprehensive security training for rail employees.

The lack of quality training is documented in the Teamsters Rail Conference report *"High Alert: Workers Warn of Security Gaps on Nation's Railroads*. This report was based on survey responses gathered over the previous year from more than 4,000 Rail Conference members employed on freight and passenger railroads nationwide. The survey asked rail workers to report the safety and security measures in place on any one workday during the nearly year-long survey period. The report reveals a shocking inattention to security by the nation's largest rail corporations. Rail employees have little, if any, company-sponsored training on the handling of hazardous materials. The practice of leaving rail engines and other machinery unlocked is far too common. The report's conclusions are that the nation's rail system is vulnerable to terrorist attack, and the rail corporations have not taken seriously the safety of their employees and the public. The findings of that report include the following:

- 94% of respondents said that rail yard access was not secure;
- 83% of respondents said that they had not received any, or additional, training related to terrorism prevention and response during the 12 months prior to the survey;
- 70% of respondents reported seeing trespassers in the yard; and
- Only minimal security training had been provided to employees who have been warned that they could be the targets of a terrorist attack.

Madame Chairwoman, I would ask that this "High Alert" report be made part of the hearing record.

A week after the release of *"High Alert"*, the Government Accountability Office (GAO) released its own report on rail security, prompting Senator Olympia Snowe (R-ME) to declare, "We are in a situation where our individual rail services across the country have no clear understanding of what the best means are for securing their rail systems.//

Based upon these and other findings, comprehensive vulnerability assessments conducted by the appropriate federal agencies should be mandatory for all railroads. Such would aid in addressing key areas that many believe are not adequately being handled by the industry. Such vulnerability assessments should be used as a basis for implementing recommendations that include:

- Improving the security of rail tunnels, bridges, switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified as posing significant risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;
- Deploying equipment to detect explosives and hazardous chemical, biological and radioactive substances, and any appropriate countermeasures;
- Training employees in terrorism prevention, passenger evacuation and response activities;
- Conducting public outreach campaigns on passenger railroads;
- Deploying surveillance equipment; and
- Identifying the immediate and long-term costs of measures that may be required to address those risks.

Employee training is one of the Rail Conference's most sought after security provisions. Throughout the country, railroad workers have established that their employers provide little or no specific training for terrorism prevention or response. In the *High Alert* survey, 84% of respondents said that they had not received any additional training in terrorism response or prevention in the 12 months preceding the survey; and 99% said they did not receive training related to the monitoring of nuclear shipments. This lack of training should be of critical interest to citizens who live near rail yards and tracks. The workers who lack this training will often be the first ones to respond to incidents.

The railroad industry has also not adequately trained and integrated its employees into the security plans currently required. Railroad employees remain largely in the dark regarding the carriers' security plans and, while we can appreciate that certain security information must remain confidential, we believe that employee hazmat and security training is critically lacking and must be expanded and improved. Rail employees must know and understand the basic framework of their employer's security plan, including their roles and limitations within the employers' overall security plans, how the plan's threat level matrix is structured, and how notification to employees will be transmitted each time the threat level is changed. Today, rail employees do not have this information. Rail employees are not trained to know and understand the carrier's threat level matrix, and they are not notified when the threat level is changed due to either general or specific threats.

Railroads boast that their workers are the eyes and ears of the industry, but we frankly feel more like canaries in a mine whose only clue of pending disaster will be when disaster strikes. As workers on the front line, our members will be solely relied upon by passengers, the public, and emergency responders to assist in the first critical moments of any rail emergency. Therefore, comprehensive security and response training for rail employees is an absolute must, and I strongly encourage this committee to address this long-outstanding issue.

In the absence of training by the railroads, the Teamsters Rail Conference unions have worked together with six other rail unions to develop, on their own, a five day intensive Hazardous Materials and Rail Security training course for members, with funding from a National Institute of Environmental Health Sciences training grant. This training is provided through the National Labor College/George Meany Center in Silver Spring, MD. Labor is doing its part, but we cannot do it alone. The carriers must step up to the plate, share the basic elements of their security plans with their employees, and provide comprehensive training to front line rail workers.

The Rail Conference also believes that one of the keys to railroad security and the protection of hazardous shipments from malicious intent is to strengthen security in and around yards and facilities where such materials in rail cars are stationary and in "storage incidental to movement." These stationary shipments are extremely vulnerable to malicious intent. Privacy fencing, restricted access by outside non-railroad entities, improved safety and security training for rail employees, and perimeter security and patrols are among the more feasible solutions to improving security in rail yards and other "temporary storage" facilities. Shielding Toxic By Inhalation Hazard (TIH) shipments and other high-hazard materials on tracks within yards may also enhance rail security, i.e., placing these high-hazard cars on tracks not readily visible from areas of public access.

These are not just frontline rail workers who are raising concerns regarding the shocking lack of security where rail cars carrying highly toxic chemicals are sitting unsecured on the nation's rail lines. There have been in-depth, multi-part rail safety investigative stories by local and national newspapers and broadcast news networks in over fifty cities across the United States. News media reports with headlines such as "Terrorism on the Rails", "Terror Trains", "Rolling Dirty Bombs", and "Toxic Trains" have appeared in Sacramento, Buffalo, St. Louis, Kansas City, Miami, PBS, Fox News, Atlanta, Cincinnati, Fresno, New York City, Dallas-Ft. Worth, Omaha, Houston, Memphis, Washington, D.C., Pittsburgh, Philadelphia and dozens of other cities. The Teamsters Rail Conference has compiled a ten-minute video of news clips of investigative reports from television stations across the country that demonstrates how serious and widespread lax security measures are in the rail industry. We have distributed a copy of this DVD to each member of the Subcommittee, and we encourage you to take a few minutes to watch it.

I have also attached to my written testimony a copy of an investigative article by Carl Prine, a reporter for the Pittsburgh Tribune Review newspaper. For those that will say that our "High Alert" report is dated, and that rail security has significantly improved over the past few years, I recommend you read this documentation of numerous breaches in security at plants and rail lines across the United States. It paints a picture of an individual unchallenged as he climbed all over rail cars loaded with highly toxic or explosive materials. Even where the Federal Railroad

Administration had noted defects in security in 2003 at some rail facilities, access was easily obtained four years later. I can't help but think that this reporter went unchallenged in plain view of workers, in part, because rail workers have not been given the security awareness training that would cause them to recognize and report suspicious activity and security breaches to the proper authorities.

We support allowing Transportation Security Administration (TSA) and Department of Homeland Security (DHS) officials working with TSA to enter rail yards and other facilities where rail cars are stored or awaiting transportation to conduct security inspections and copy records pertinent to rail security. We also support electronic tracking of hazardous materials cars and chain of custody requirements for certain hazardous materials.

Wherever possible, high-hazard shipments should also be prohibited from being placed in stationary "incidental to movement" storage in high-population areas. This only makes sense given that the stated goal of terror organizations is to cause mass casualties. Limiting stationary "incidental to movement" storage in high-population areas would greatly reduce the incentive to attack such shipments simply because the impact of such an attack occurring in a remotely populated area would not achieve the terrorist's stated goal of causing mass casualties.

The Teamster Rail Conference strongly supports the inclusion of "whistleblower" protection in any rail security legislation. Railroad workers should not—and cannot—be subjected to dismissal when they provide security threat information to the government.

The Teamster Rail Conference looks forward to working with this committee and the Congress to address the issues of rail security nationwide. I thank you for the opportunity to testify before you today, and I will try to answer any questions you may have.

#### **Attachment**

#### **Pittsburgh Tribune Review \***

January 14, 2007 Sunday

#### **TERROR ON THE TRACKS**

**By Carl Prine**

Let's say the **Pittsburgh Tribune-Review** reporter really was a terrorist.

What if those were bombs he was placing on the chemical placard of a rail car inside the Thatcher Chemical Co. plant in suburban Las Vegas, and not his business cards?

Instead of a camera recording lax security over some of the deadliest chemicals ever produced, he held a detonator? And the string of chlorine gas cars trundling down Union Pacific Railroad tracks in the heart of Vegas was his prey?

If he was a terrorist, and his goal was to release a potentially catastrophic cloud of deadly gases, explosives and caustic acids—in unguarded cars, left abandoned—then a U.S. Department of Homeland Security's planning scenario might apply: 17,500 people dead, another 10,000 suffering injuries and 100,000 more flooding trauma wards, convinced they've been poisoned. The environmental damage would take weeks to clean up, forcing the evacuation of as many as 70,000 residents from a city built on sin, military might and heavy industry.

Less detailed and unlikely "Worst Case Scenario" plans filed with the U.S. Environmental Protection Agency suggest the gases that could be released by the reporter perched atop millions of pounds of zinc chloride, phosphoric and sulfuric acids, and chlorine gas could drift 18 miles and threaten 1.1 million people with death, displacement or injury.

But, luckily, he was only a reporter.

Five years after terrorists murdered 2,996 people in the Sept. 11 attacks, the Trib embarked on a probe to see how well railroads and their customers secure lethal hazardous materials—termed "hazmat" by first responders. The road map: Reports compiled since 2003 by the Federal Railroad Administration detailing defects in the way railroads and chemical plants conducted counter-terrorism security planning and worker training.

Armed with that data, the Trib penetrated 48 plants and the freight lines that service them to reach potentially catastrophic chemicals in populated parts of Seattle, Tacoma, Atlanta, Pittsburgh, Las Vegas, San Francisco's Bay Area and the New Jersey suburbs, as well as two port facilities in Oregon and Washington.

"What you uncovered is a criminal tragedy, and it's a criminal tragedy that's just waiting to happen. It's also criminal what we haven't done about this," said U.S. Sen. Joseph Biden, D-Delaware, who has sponsored legislation designed to revamp rail hazmat security nationwide and pledges to hold hearings on the issue.

Biden has taken at least 7,000 round trips by rail from his home in Wilmington to Washington, D.C., since entering the Senate in 1972. He routinely talks to railworkers, and when he pulls into a depot, he scans for hazmat tankers, guards and gates.

He loves railroads so much that he wants to protect them by slashing tax cuts and take the extra cash to fund every recommendation of the 9/11 Commission that investigated the 2001 attacks. He demands more federal cops in the rail yards, more cameras and gates, less dangerous chemicals on the tracks and rerouting of particularly lethal shipments around big cities.

"All you have to do is look," Biden said. "I can walk into a freight yard right now, and I can put plastique explosive on a railcar and detonate it. This is a distant concern to many people in Washington, D.C., but I see and I hear about it every day and we have to do something about it."

The Association of American Railroads, with a membership hauling almost 90 percent of the nation's hazmat tank cars, said freight security has improved since 2001 but conceded more has to be done to protect 240,000 miles of mostly unguarded line.

"You've got to remember the open architecture of railroads," said Nancy Wilson, AAR vice president and director of security. "We're not static facilities. We cannot protect every railcar, every rail yard or every customer's facility all the time."

In the years since the Sept. 11 attacks, intelligence tips have warned about U.S. chemical plant targets and terrorists have hit freight trains abroad. Still, Homeland Security and the AAR insist there's no indication that terrorists are plotting hazmat rail attacks in the U.S. now.

Good thing, because the Trib found:

Little visible differences in security between the largest and smallest train lines. The Trib easily reached hazmat shipments or locomotives controlled by 12 railroads, ranging from giant

Union Pacific to the tiny, city-owned Tacoma Municipal Beltline. Workers never challenged the reporter as he climbed trains, photographed derailing levers or peeked into signaling boxes controlling rail traffic.

No police presence. Despite long trips down tracks nationwide, no rail cops detained the reporter. At a Clifton, N.J., station where explosive railcars hug teeming commuter lines, a Transit Police cruiser idled unconcerned while the reporter spent an hour around hazmat cars. According to the railroads, fewer than 2,300 cops patrol the tracks, about one for every 100 miles.

Shoddy security even at 11 refineries, railroads and chemical plants bound by "stringent" voluntary guidelines created by the AAR and other industries. The Trib penetrated security at four railways adhering to AAR's guidelines. Seven plants that had voluntarily upgraded security to meet standards of their trade groups also had tracks open to terrorists.

No executive at a large railroad would talk to the Trib about the newspaper's findings. Local and state security officials in California, Washington and Georgia also were silent when the Trib tried to discuss hazmat security.

The Nevada Homeland Security Commission, however, is investigating shortfalls uncovered by the Trib's Vegas vacation.

"Closing gates, making sure workers and guards and police are aware of our chemicals, that's important," said Commission Supervisor Larry Casey. "Unfortunately, the farther we get from 9/11, the more people forget about staying vigilant."

"Then there's the funding issue. The federal pot gets smaller and smaller. The farther we get from the major event in our lives, the threat goes up while the money to stop it goes down."

Chlorine gas unguarded in the suburbs of Las Vegas. The Trib reached 11 tankers filled with deadly gases and acids inside plants or along tracks in one of America's largest cities.

In 2001, five of the 19 al-Qaida terrorists visited Las Vegas before hijacking airliners for suicide missions to Manhattan and Washington, D.C.

Las Vegas annually hosts more than 37 million visitors. The city received about \$28 million in federal counter-terrorism funding last year, but officials have been told that's being scaled back, leaving almost nothing for safeguarding the tracks latticing the city.

According to Homeland Security's Inspector General, 90 percent of taxpayer anti-terrorism funding has gone to protecting aviation. In 2006, \$4.6 billion flowed to securing U.S. airports, leaving \$32 million for safeguarding surface transportation, including railroads.

### **The Burning of Atlanta**

Following FRA's deficiency reports to 12 facilities near Atlanta, the Trib found numerous security snafus in one of Dixie's largest cities.

Along CSX lines in Dekalb County, a Trib reporter climbed unguarded stores of deadly insecticides, flammable petroleum distillates and acetone, a chemical that can trigger a vapor cloud explosion if leaked.

Since 2003, FRA has noted 53 defects with CSX counter-terrorism planning and training in five states, including Georgia.

A year ago, FRA reported that Bulkmatic's plant in the Atlanta suburbs failed to properly address potential intruders. A fence "locked" with almost 2 feet of slack meant a Trib reporter could stroll by employees there who made no effort to challenge him. Federal inspectors had previously written up Bulkmatic chemical operations there and in Buffalo and Chicago for security problems.

After visiting Alchem's Atlanta's caustic soda operation in 2005, an inspector wrote, "Is there a fence? Is facility manned 24 hours a day?"

Woodbridge Corp.'s deadly toluene diisocyanate railcars in the bustling Atlanta suburbs stand open to sabotage. The Trib easily accessed highly toxic or explosive rail shipments in a dozen rail and chemical facilities in one of Dixie's largest cities.

In September, the Trib found the answer was, "No."

In Marietta, Ga., the Trib reached hundreds of thousands of pounds of acrylic acid, a highly explosive chemical with choking fumes, stowed on the tracks near several factories. Woodbridge Corp.'s toluene diisocyanate railcars in Lithonia also were unguarded. If ruptured, the chemical can cause severe burns or death as gases seek out moist human flesh.

Bombs also easily could have been placed on propane, caustic soda and fuming sulfuric acid tankers and vats in nearby Carroll, Fulton and Gwinnett counties, causing massive explosions and corrosive gas releases.

Atlanta and Georgia homeland security officials declined to comment on the Trib's findings. Neither would Alchem, Bulkmatic, Woodbridge and CSX.

"To me, this is a no-brainer for terrorists in Atlanta or anywhere else," said Sal DePasquale, a Georgia State University expert on counter-terrorism and retired security director for chemical titan Georgia Pacific. "It's toxic material. It's unprotected. If you're a railroad or a chemical plant and you won't have someone ready to kill the adversary ready to attack your plant, then what can you do?"

"What's happened here is simple. Railroads were constructed and industry grew up along them. Then people came to live near the industry. Railroads by their nature are open to access and now we have to figure out how to protect them. Do we reach the point where we say, 'In the interest of public health and safety, we're going to close down your ability to ship toxic material?' What happens then? It's a tough question to answer."

#### **West Coast swing**

One of the deadliest cargos known to man with a Trib business card tucked into placard No. 1017—chlorine gas. A weapon of mass destruction in World War I, this chlorine in Tacoma is so corrosive it will eat through human teeth.

For almost three weeks, a Trib reporter followed the rails from Seattle to San Francisco to Las Vegas. Of 23 railroads, chemical facilities and seaports hit with FRA security defects, the Trib penetrated 18 of them in Washington, Oregon, California and Nevada.

Two years after FRA found security plan defects at Cascade Columbia Distribution's Seattle warehouse, a Trib reporter found himself underneath stacks of explosive hydrogen peroxide, toxic ferrous chloride, blinding fluorosilicic acid and deadly muriatic acid.

With cameras, roving patrols and high fences, Pioneer America's Tacoma bleach plant seeks to bar terrorists from chlorine railcars. But a Trib reporter walked past rail switching levers and safety chocks to 90 tons of deadly gas abandoned by the Tacoma Municipal Beltline Railroad outside the gates. In 2004, FRA reported the railway failed to create a security plan and the Trib certainly didn't find one that kept chlorine gas safe from intruders two years later.

According to EPA "Worst Case Scenario" filings, a catastrophic chlorine tank rupture there could push gas to as many as 14 miles, threatening 900,000 people.

"We can't switch out the chlorine on our own," said Pioneer's plant manager, George Karscig. "The railroad brings in the cars. There are some days when they come and they don't make the switch and that's what you found when you came here."

Karscig immediately ensured that his guards policed railroad tracks Pioneer doesn't own.

Union Pacific's bustling yard bisects Martinez, Calif., and the sprawling Shell refinery that brews large quantities of Liquid Petroleum Gas there. The Trib found Shell's safeguarding of 10 million pounds of highly explosive isopentane to be rig-

orous. That's important, because vapors released by a terrorist could trigger a flash explosion across much of the seaside town, according to EPA files.

LPG is so flammable, a detonation of one railcar can cause second-degree burns more than a mile away.

But Shell officials concede there is little they can do to babysit dozens of tankers holding what first responders call "LPG" outside refinery property. During the Trib's odyssey across a pipeline and through Shell's rail channel, the Trib encountered three workers on Union Pacific tracks. They didn't stop the reporter or ask what he was doing.

Detonating one LPG railcar can cause second-degree burns more than a mile away. A terrorist who explodes 18 LPG tank cars would unleash as much energy as the atomic bomb that was dropped on Hiroshima in 1945, according to federal reports.

In Benicia, San Jose, Salinas, Richmond and Fairfield, Calif., the Trib found that a terrorist easily could have placed bombs on more than 100 other tank cars containing asphyxiating anhydrous ammonia, flammable petroleum distillates, highly explosive propane, and LPG, often on Union Pacific tracks.

It wasn't the first encounter by either the Trib or FRA with lax Union Pacific security. In 2005, an inspector noted that anyone could enter the Brenntag Great Lakes warehouse in Milwaukee's suburbs because a Union Pacific employee "does not lock gate after switching facility." FRA also detailed problems with the railroad's security plans, training and intrusion protections in Oakland, New Orleans and Seattle.

After FRA visited the Seattle yard in 2005, an inspector reported "concern with the lack of railroad crews requesting his ID or credentials during inspections." A Trib visit a year later found three bums sleeping under a bridge and a flurry of locomotives moving freight, but no sign of rail police.

Open gates, torn fencelines and unguarded rail lines allowed unfettered access to 18 facilities and railroads along the Pacific coast, including this plant along a Union Pacific spur in the suburbs of San Francisco.

In Nevada, a Trib reporter would simply wait for a Pioneer factory to disgorge its deadly chlorine and caustic soda tankers to an unguarded rail spur owned by Union Pacific. Although the Trib decorated Union Pacific hazmat tankers with more than 100 business cards from Vegas to Seattle, the company won't discuss it.

"Our only statement is that we believe what you did is dangerous and we strongly encourage people to stay away from railroad tracks," said railroad spokesman Jim Barnes.

#### **A Jersey state mind**

In the crowded New Jersey suburbs rimming New York City, the Trib found tougher chemical plant security than any other place. But track protection was no better than other states, and of 48 facilities and railroads found to have security defects by FRA, the Trib entered 12 of them in July.

At the Black Prince Distillery in Clifton, N.J., explosive tankers share space with passenger trains on New Jersey Transit's bustling Mainline from Manhattan. A Trib reporter eased past video cameras and a patrolling police cruiser three times during trips in and out of the plant and along the tracks, even while commuter cars zipped by.

That concerned Richard Cañas, director of the New Jersey Office of Homeland Security and Preparedness.

"The storage of hazardous material on commuter rail lines is something to be considered and that scenario goes to my biggest fear—mass transit," he said. "In our state, you've got a high population density. You have rail out the kazoo that moves at a lightning pace. There are things we do, like ramping up vigilance, conducting searches, doing shows of force. But this is expensive and must be sustained for it to be effective."

A Trib reporter followed bums under a bridge and through the woods to a large depot run by Conrail to service refineries stretching from Sewaren to Perth Amboy along "The Chemical Coast" line. On tracks stacked almost a mile deep with highly explosive chemicals, the reporter climbed tankers and waved at nearby trucks.

Riding the rails atop a highly explosive shipment through the "Chemical Corridor" of New Jersey. The Trib penetrated security at a dozen Jersey facilities, often finding catastrophic amounts of gases or explosives unguarded in one of America's most populated areas.

Adding another two chemical plants in Parlin and Carteret, a pair of propane warehouses, an Edison distiller and the railroads connecting Morristown, Whippany, Dayton, Tennent, Ringoes and Newark, a coordinated attack on Garden State hazmat reached by the Trib would have released enough deadly ethylene oxide, toxic

methylamine, explosive LPG, lethal hydrogen chloride and flammable denatured alcohol to threaten 527,000 people, according to EPA documents filed by the companies themselves.

Once informed of the Trib's breaches and delivered photos of unguarded chemicals, New Jersey's Homeland Security experts sped to sensitive sites to probe what went wrong. That wasn't unexpected. Like Michigan, Trenton has fully merged state police and emergency management agencies so that a threat potentially impacting the environment or public health draws rapid law enforcement scrutiny, too.

The state is creating an intelligence hub linked to other high-target regional cities and states to better track vulnerabilities. Although New Jersey law already requires stiffer security at chemical plants than what's found in other states, Cañas said voluntary efforts at high-risk factories often work, too.

Trib stakeouts at Dupont, Air Products, Shell and ExxonMobil plants found outstanding perimeter and rail yard protection—despite earlier FRA defects—forcing the reporter to seek softer targets along the rails, something terrorists might do, too.

"New Jersey has done a lot," said Cañas. "But we're still extremely vulnerable in some areas. You exposed some of that—there's no denying that—but I think overall there's a spirit of cooperation here that you won't find in other states."

Why?

"They still feel 9/11," said Cañas. "They feel it every day. They haven't forgotten."

Ms. JACKSON LEE. I thank the witnesses for their testimony. I look forward to continuing this dialogue. I also will look forward to the utilization of your testimony, which I think is enormously important.

I will begin the questioning. I will ask both Mr. Maslanka and Mr. Murphy, and I will refer to your report, Mr. Murphy, and just read some language. Your report states that workers report working alone, long hours, without rest, unpredictable work schedules, unsecured rail yards with unattended equipment and unsecured hazmat, very few if any rail police and workers being unsure, if not ignorant, of security procedures.

We are holding this hearing because we respect the importance of the term "safety," but we distinguish that term from the word "security." So to both of you, would you represent or do you believe that your employees feel vulnerable? If they feel vulnerable, have you made continuous and intense representations to the industry that you would like not only safety training, but security training?

I might venture to say that security training is somewhat distinctive. It means, of course, that you would be assured, I think, that there is sufficient communication with the industry on intelligence information that is relevant to the industry, and that it would be digested sufficiently for employees to be made aware of it; that there would be certain forms of technology used to detect matters dealing with security issues; that employees might be rested; that their hours might be regular so that they could be rested.

There are a number of issues that I hope that you can distinguish for us between safety and security. Mr. Maslanka?

Mr. MASLANKA. I would venture to say that we have made them aware of our concerns with safety and security issues. Over the years, we have been involved in various types of programs. I will just provide you with one example. Some years ago in the mid-1990s, we talk a lot about safety here, of hazardous materials. Although that is a safety issue, it could easily become a security issue by somebody with the wrong intent.

But as far as the training aspect of it, in the early 1990s on a railroad by the name of Conrail, through the efforts of the George Meany Center, we put together a cooperative partnership for hazardous material training, where the railroad participated, the labor

organization participated, and we got the expertise from the National Labor College. It was an excellent program. It was a model program of how these things can be accomplished.

Then, Conrail was eaten up by two big rail carries, CSX and Norfolk Southern. We made presentations for those carriers. We tried to get these programs in place, but that was not their choice. That is just one example.

I think there are a lot of similarities in safety and security, but as far as the security end of it goes, we have not seen any legitimate straightforward training telling people what to look for, protocols and all those types of things. The best we see are pamphlets or documents. It kind of reminds me of the days when I would be in a shanty in a railroad yard and I would see a box. I was nosy enough to look in the box to find out there were 150 North American emergency response guidebooks in it, which are valuable tools for railroad workers. But they were laying in the box because they were never given to the employees, or did the employees ever receive any instruction. That all changed with the cooperative centers through the Meany Center.

Ms. JACKSON LEE. Your employees, then, feel vulnerable?

Mr. MASLANKA. Yes, they do.

Ms. JACKSON LEE. Mr. Murphy, you listed a number of items. Would you comment on whether your employees feel vulnerable, and whether or not we need federal intervention?

Mr. MURPHY. I listened today to the testimony of the first panel, particularly Ms. Wilson's testimony about the number of employees that have received security training in the past few months and all that. The week before last, I was at the House Transportation Committee that was conducting hearings on safety, and heard another representative from the industry claim amazing improvements in the training of employees.

I talked with my brother union members afterwards, from the industry, and asked them. How could they make these claims in the light that most of our members, if not all, still report to us that they have not received any training related to security? So I find it bewildering, and I think that is the task of this committee. You have to balance what the claims of the industry are against what the workers are telling you.

I can assure the committee that any rail worker, who would have to be given protection by this committee because one of the problems that we face today is that the railroad companies will take job action, disciplinary action against rail workers who report security violations. You have to take that into account, but they would tell you if they were so protected, that they feel as vulnerable as they did on September 12 today.

Security and safety issues are necessarily intertwined. The distinction, I think, is that the carriers, like any other employer in this country, when they train workers about safety it is either personal safety or protection of property—usually the employer's property. But it is when the accidents happen that we can see why the safety issues are so well connected to the security issues.

Just recently, the derailment in Kentucky, you may have read about that. The employees of that train did not know what hazardous chemical was on the cars that ruptured. So when the fire-

fighters arrived, they could not tell them what was leaking. The firefighters, now know what to do, poured water on the chemical, which only spread it further. So that is where the safety and security issue joins. Railroad workers have to be educated to the point where they are alert for what in normal circumstances would be an ordinary situation that might turn into a security risk.

I can tell you one anecdotal story of a locomotive engineer this past summer. He was at a rail yard in Michigan. A gentleman hopped on the cab and flashed a security I.D. at him, and said he was from some particular agency. This engineer, who had received no training, just accepted the presence of that person in the cab. It was only later that he realized, "I should have questioned that employee," or "How come no one told me that this federal agency security force would be around today?" He realized that he willy-nilly allowed that person to get on the cab, because he flashed some kind of an official credential at him.

That is the real state of security training in our rail system today. The carriers can give you all the impressive numbers, but Madam Chairman, I can assure you that none of that training has reached our members yet. Remember, harking back to September 10, 2001, the New York City first responders had been trained to prepare for another bombing of the World Trade Centers. No one could imagine that aircraft would be used as flying missiles.

What the Teamsters and the rest of organized labor have been saying for years now is, we need to be better prepared. And the carriers have to accept the responsibility to assume that kind of training for our workforce.

Ms. JACKSON LEE. Thank you. I assume you are saying we need federal intervention.

Mr. MURPHY. Yes.

Ms. JACKSON LEE. Thank you.

Mr. Lungren, I yield 5 minutes to the ranking member of the subcommittee.

Mr. LUNGREN. Thank you very much.

And thank you both for your testimony.

I am concerned. I hear two diametrically opposed versions of the state of affairs here. I find from the railroads, and I believe this is certainly credible, that they did embark on a program to reassess where they were from a security standpoint after 9/11, and that they had tried to use best practices and actually consulted the national intelligence community.

I have looked at some of the material they have out, and I have had testimony as to what they do. But then I hear from the two of you that somehow it is not getting from here to there. How do we find out? How do we determine what the state is here? I would think it would be in the common interest of both management and labor to protect the products that they are moving. I would suspect that partnership is better than adversarial relationship in this. I am no expert on the relationship of employees to management in a railroad, but I have done some reading, and I understand you have had ups and downs and things.

But let me just ask both of you, what is the level of training that you believe to be necessary? For instance, should railroad workers be trained to intercept a suspicious individual? Should railroad

workers be trained to dispose of or in some way handle suspicious packages? Should railroad workers be trained in non-lethal methods of incapacitating suspects? Should railroad workers be trained rather to observe and inform, as opposed to those other things?

I mean, what is the level that you are talking about, both of you, that would be necessary to give the level of protection for your employees, and as importantly, to the public at large from what could take place as a result of some terrorist attempting to intercept a train, or in some way attack the most hazardous material that might be there?

Mr. MASLANKA. I would say, very briefly, I don't think we are asking for stun guns. We don't want to get involved to that extent where we are working for some kind of training to take on something. But what we really need is to see a security plan, a real security plan, and understand what the provisions of that security plan are. I am speaking of the employees.

To understand how to recognize problems, how to recognize packages. You know, there are tell-tale things out there that would help people to understand what their responsibility is. And how to not only recognize, but respond, God forbid, something should happen.

Along those lines, I think another thing that is being overlooked very widely is the expertise of the employees themselves, who know the lay of the land better than those in the ivory towers. I mean, the railroad workers out there are working every day. They know the lay of the land. They know where the most porous areas are and where there can be a problem, but nobody comes and asks them about these things. There ought to be a little bit of brainstorming going on with the employees who know the lay of the land. You could probably develop better security plans if you used those resources.

Mr. LUNGREN. Mr. Murphy?

Mr. MURPHY. Well, you present the dilemma, that you have to solve sometime this session, because it is really a matter of resources. In our "High Alert" report, we talk about the inadequate number of railroad police. Taking that one step further, there is certainly a lack of security personnel throughout the entire railroad system in this country.

So if you want to try to find the bright line between where the proactive intervention should start and end, you have to address the lack of security police personnel within the industry. If the industry, at least on the freight side, can be compelled to increase the level of security personnel, then those type of interventionist actions that you just outlined should be handled by them. But if that force does not increase, then necessarily you are going to ask for more responsibility from the people that go to work every single day.

And then if you do that, then in fact you are talking about a much more complex and thorough training program. It is not an easy answer of where the responsibility should lie, but just let me tell you how demanding it is, or how necessary it is. In the testimony of Ms. Wilson earlier today, she talked about the levels of security that the industry has invoked.

With me today is Rick Inclima, the director of safety for the Brotherhood of Maintenance of Way Employees, part of the Team-

ster Rail Conference. This was the first time he has seen those levels and their definitions, today.

This is what is going on. Don't you think that it makes sense, as my brother said, that this should be a joint effort between the carriers and their employees? How to figure these things out? But here it is, 2007, and we just see the definition of their security levels for the first time. That in itself should tell you mountains about what we need to do here.

Mr. LUNGPREN. I hope at least he will pick up the phone, or someone will pick up the phone and call one another, and do that.

Mr. MURPHY. We may need you to mediate on that.

Mr. LUNGPREN. Thank you, Madam Chair.

Ms. JACKSON LEE. I thank the ranking member.

Now, I would like to yield 5 minutes to the chairman of the full committee, Mr. Thompson of Mississippi.

Mr. THOMPSON. Thank you, Madam Chairman.

Let me say from the outset that I am concerned, too, because in some instances we have heard the complete opposite of testimony in this hearing today. As I said earlier, our goal is to try to create a rail system that is secure. But I also want, for the record, to make sure that the information we get is correct, because we take that and use it to craft legislation.

I would also say, Madam Chairman, that for future hearings we might need a little more definition on some of these.

Two points, is it your testimony that, and I will take both of you on this, that the present training received by your membership is viewed as inadequate, from a security standpoint?

Mr. MASLANKA. Woefully inadequate, yes.

Mr. MURPHY. The training that most or all of our members have received so far has either been a brochure or watching a video. That says volumes.

Mr. THOMPSON. What you heard with the panel before you also was a system where we were being told, "let us do it; we can do it without federal intervention, or what have you, and trust us." And so again, do you think that based on what you have heard in your membership over time as experienced, that we can in fact trust the industry to secure itself, without significant federal intervention?

Mr. MASLANKA. No, absolutely not. Self-governance does not work. We have seen it time and time again. That is why I talked about the bit I did with the 239 regulation, the emergency preparedness, that it needs to be mandatory. It just doesn't work. Then you get budget cuts and sometimes when budget cuts happen, the first thing to suffer is training. At other times, there are not training staff, so they turn the training over to maybe departmental heads just as another burden and another duty, and they are not qualified with the skill sets to provide training. No, they can't be trusted to self-govern.

I guess one other additional point I would make, whether it be in legislation or regulation, if there were specific provisions for specific training regimens and plans and review of those plans, and proper enforcement, I think that is where we need to go, because it is not working. The highlight of this all came about in 2001. It

is now 2007 and it hasn't happened. That, in itself, says unless it is mandated by legislation or regulation, it is not going to happen.

Mr. MURPHY. Let me just answer, Congressman, by saying that phrase, "the past is prologue," would absolutely ring true in this case. Unfortunately, from labor's point of view in any industry, not just the rail industry, anytime that safety and security for workers and the general public has been left to their responsibility, it has proven to be inadequate and Congress has had to intervene by regulating it. I see this as no different.

There is no accountability unless you impose enforceable standards upon the railroad companies.

Mr. THOMPSON. Thank you very much.

I yield back.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

I would like a second round for questions that I would like to pose to the gentlemen.

There are stark differences between the testimony that we heard in the first panel and that of the second panel, but it does not mean that we will not ultimately find a common ground that should be reflected in our legislation. It doesn't mean either that we are going to ignore the starkness of your testimony.

I think what frustrates me is the fact that we are now in 2007, and representatives of workers on rail yards and rail systems are saying that they have no security training or training as it relates to safety, period. This hearing, of course, is about security. There is a fine line that has to be, I think, made uniquely distinctive.

We had safety in the airports before 9/11. We would like to think we have security. We have the Transportation Security Administration with employees that are employed by the federal government. We have certain procedures that occur.

I guess one of the challenges that, of course, I would expect a great outcry by not only the traveling public, but maybe even rail workers, is a kind of security system that the aviation system has. But the very fact that there are no scanning at all raises, of course, concerns. The question will be: What else do you put in place?

I would like to know from both of you whether or not the Transportation Security Administration has begun to engage any of you, your leadership, your workers, as stakeholders in how they should best proceed, as of course they will be entrusted with the responsibility of security for railroads, commuter and other systems that this process would instill. Meaning, has TSA reached out to you as stakeholders to secure your thoughts about training and other security measures for the rail systems?

Mr. MASLANKA. I can't speak for other organizations, but as far as our organization, other than seeing TSA representatives at a few meetings that involved the Federal Railroad Administration, I would have to say no, at least from the railroad sector. I want to make it clear, I don't speak for the mass transit or the airline sector. I can submit that for the record after we have additional information.

I just was looking at this earlier today. It is actually a letter from the TSA two stakeholders, whoever they may be, advising them of the current rulemaking. But no, we didn't receive that, nor have we received any other information or calls asking for our

input. I think there is a gap there because many of us in rail labor participate in the Rail Safety Advisory Committee, which does negotiated rulemakings and handles all kinds of safety things. And FRA interacts with TSA, so I would say they know who we are. They know who the stakeholders are, but we haven't heard from them.

Ms. JACKSON LEE. Mr. Murphy, thank you.

Mr. MURPHY. I would concur with my brother's remarks. In fact, you should take note that we supplied or forwarded a copy of our "High Alert" report to TSA in early 2006 and never even received any kind of response back, not even a curious request for more details.

Ms. JACKSON LEE. You also made note that the industry has focused a lot on technology. We hear that often in my other committees dealing with homeland security as well, and technology has its place, but not enough emphasis on the real-life training of employees.

Mr. Maslanka, you made a very important point about noticing a box. You did make an interesting point that in the box, there were some manuals regarding safety. But it was your curiosity, or the employees' curiosity, that made you go look.

The question would be: Wouldn't that be an aspect of training, people-to-people training, to know how to be intuitive about boxes and/or people? I think you made the point that you can't really stop, and I mentioned scanning, and that is a broader issue, but you can't really stop the masses that get on trains, either whether it is long distance or whether or not it is transit. The point is, can you train employees to feel comfortable with their knowledge and to feel comfortable with what they might have to see and detect as being rail employees?

Let's start with Mr. Murphy first.

Mr. MURPHY. Obviously, the issue that this committee is charged with addressing is so very important. Trying to find ways in which we can make immediate recommendations, given the panoply of issues that we face, from our perspective, and I hope I am not ranging too far afield from your question, but we would think that training in the simplest or the most basic elementary levels of the railroad's security threat levels should be done immediately, as a start, and what they actually need.

We would think that that kind of education, along with somehow getting employees to recognize what would be considered ordinary might not be, in unusual circumstances, and it is an essential part of the type of security training that we would seek. While you were asking me the question, I was thinking about one important point that we raised in our report which we released at the end of September, 2005, when we talked about the lack of training for evacuation plans for our members on the Northeast Corridor, and the train tunnels. I know that Metro-North was talking about their plans. I am talking about in Baltimore, and further up the coast.

As of today, there has been no coordinated effort in training our members on evacuating passengers if an emergency resulted. I mean, it is just, where do you start? Where do you get the kind of commitment from the carriers so that looking at that box, which

turned out to be important information, is something that I have to pay attention to.

You were right, Madam Chairman, when you pointed out that before 9/11, there was security in the airline industry. It took a tragedy to find out that it was inadequate. That is what our fear is. We have been saying this to the carriers for more than 3 years now: It is not enough. It is your responsibility to make the commitment so we don't have to pick up the pieces after another event, and then come to that recognition that it is inadequate.

Ms. JACKSON LEE. Mr. Maslanka, you have also made note, would you wish to finish, to answer that question?

Mr. MASLANKA. Yes. I think the question was?

Ms. JACKSON LEE. Is it more emphasis on technology than the actual training of the employees?

Mr. MASLANKA. Yes, I believe that is correct. I would just say, to the extent that training is available, I mean, using the materials that are put together, and maybe making the materials better, but using them for more than just saying "here they are," or popping in a video and letting the video run for 10 minutes, and saying, "you have signed the register so you have now complied with the regulations."

There has got to be real meaning behind it. You have to really impart the knowledge and the skills, and that is not taking place thus far.

Ms. JACKSON LEE. Mr. Lungren of California, the ranking member, you have 5 minutes.

Mr. LUNGRON. Thank you.

On the state of training, when I was Attorney General of California, we had a very tough issue about safety programs for the use of guns. There were those who said, "Man, you make these people go through all these hoops, you are going to restrict their Second Amendment rights."

And so we came up with a training program that was one of two things. Either you had to take a test—10 questions, 15 questions, I forget what it was—that talked about the safety of the use of a gun; or you had to watch a video. The argument was that this was not too intrusive on one's rights, but gave them the information that would allow them to do this, and we allowed them to have that.

So I don't necessarily judge whether a program is effective by whether it is direct or whether it is indirect or whether it is interactive or whether it is by printed material or whether it is by film. I mean, is it effective?

So let me just ask both of you this: Can you tell me if your workers receive this type of training, and if so, approximately how many hours a year of training they have: emergency response, safety, and security, and in the area of security, suspicious behavior or individuals, suspicious package recognition, and general security training.

Do you have figures on that that is more than anecdotal or would you have to submit that for the record?

Mr. MASLANKA. I think the safest way to do that would be to submit it for the record, because it varies on different carriers, and that exercise would also require the cooperation of the carriers to receive that information.

Mr. LUNGREN. Well, I guess what I am saying, is you could survey your members or if you have done a survey of your members so we know. We would then have that set of data, and then if we talked to management, we could ask them what they see from their program, and see if they meld, and if they don't, if there is a discrepancy.

Because I think you folks are trying to tell the truth here. I think the other panel was trying to tell the truth. Sometimes we look at the same thing and see something different. What I would like to know is something that is quantifiable.

Mr. Murphy?

Mr. MURPHY. The committee should keep cognizant of the fact that by regulation the carriers are required to do some levels of safety training. And those reports are generated from their training.

But to your question about security training, to be able to identify suspicious individuals, packages—other than the brochure and the 10-minute video, the Teamsters Rail Conference is not aware, and maybe the carriers will write-off 1 hour that 10-minute video, and maybe 1 hour for reading the brochure, but other than that, we cannot quantify a number on training for adequate security, because there is none.

Mr. LUNGREN. Would it be possible to have a survey of a certain random number of your members to see what their response is, so that we could find out what they think they are getting and how much time they are spending, so we could sort of start to see where we are on this thing. Do you know what I am saying?

Mr. MURPHY. Well, we did a survey in our report. Despite the accusations of the industry, our report was based upon the responses from rail members, their employees. They tried to dismiss it as some kind of collective bargaining tactic. And that report was published at the end of September, 2005, and 83 percent of the employees who responded said they had not received any security training. But if you are asking, would the Teamsters be willing to do another survey of its membership to reflect what has transpired since the end of September, we would be more than willing to do that.

Obviously, we would need some months to do it because you have to put the survey forms out, and remember, we have to, at least in terms of the BMWE, those reports cannot be filled out while they are at work because they will place themselves in jeopardy. So that was one of the problems we faced in collecting the data. It all had to be done after they finished their shifts on the reports, and we did it over a 30-day period with the BMWE.

But we would be glad to try to do it, but I am comfortable in telling the Representative that the data that we published in 2005 will not have changed significantly one way or another.

Mr. LUNGREN. That would be a disappointment if that is true, but I appreciate your position. It is just for our guidance, for public policy decisions, it would be helpful if we had quantifiable material or evidence to help us make our best judgment.

I am not trying to take one side or the other. I am not trying to beat up on anybody. I am trying to improve the situation for you folks, for your employers, and for the folks that are riding the rails,

or happen to be living by rails and rail yards. We are all in this together, as far as I can tell.

Mr. MURPHY. As I said, the Teamsters would be willing to do another survey of its members and submit that new data to the committee, if you are interested.

Mr. LUNGREN. Okay. I think that would be very helpful.

Ms. JACKSON LEE. I thank the distinguished ranking member.

We welcome that information and we welcome any expanded information that you may want to submit. We also will allow the members of the subcommittee that may have additional questions for the witnesses, we would ask that the members submit these in writing and that the witnesses would do so.

Allow me to conclude simply with a concluding remark, and that is that there has to be a coming together of these two disparate positions. I sympathize with the ranking member's frustration. I think the difference, what I am hearing of this second panel is that for training to be received as training, it has to be concrete; it has to be somewhat extended; and the individuals that are being trained have to recognize that they are being trained.

We are hoping that we can find that balance with federal intervention, as I have listened to both panels have indicated by both their testimony and the responses to questions, that federal intervention is a necessity. I think the training has to be ramped up. When you leave the training for security, and again I focus on security, you have to leave the training with the sense that you have been trained, or that there is something different about the way you will behave, something different about the information that you have, so that you can behave differently.

With that in mind, I would look forward to, again, any submissions that the two witnesses would wish to submit, as well as the first panel, and I believe the inquiry made by Mr. Lungren is a timely inquiry, and I would ask that if you are able to survey your employees, both of you, in a timely fashion, or a sample of such, we would certainly welcome that.

Again, hearing no further business, the chairwoman thanks both witnesses of the second panel and the witnesses of the first panel. And hearing no further business, the subcommittee stands adjourned.

[Whereupon, at 5:16 p.m., the subcommittee was adjourned.]

